

EXHIBIT 11

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<p>1 IN THE UNITED STATES DISTRICT COURT 2 IN AND FOR THE DISTRICT OF DELAWARE 3 MONA DOBRICH and MARCO : Case No. 15-120 (JJF) 4 DOBRICH, individually and : 5 as parents and next friend : 6 of ALEXANDER DOBRICH, : 7 SAMANTHA DOBRICH, JANE DOE : 8 and JOHN DOE, individually : 9 and as parents and next : 10 friend of JORDAN DOE and : 11 JAMIE DOE, : 12 : 13 Plaintiffs, : 14 : 15 v. : 16 : 17 INDIAN RIVER SCHOOL : 18 DISTRICT, et al., : 19 : 20 Defendants. : 21 : 22 Video Deposition of RANDALL HUGHES, taken 23 pursuant to notice, on Monday, October 16, 2006 24 at 2:40 p.m. at 31 Hosier Street, Selbyville, Delaware, reported by Lorena J. Hartnett, a Registered Professional Reporter and Notary Public.</p> <p>APPEARANCES: THOMAS ALLINGHAM, ESQUIRE RICHARD HORVATH, ESQUIRE One Rodney Square Wilmington, DE 19801 Attorneys for the Plaintiff</p> <p>WILCOX & FETZER 1330 King Street - Wilmington, DE 19801 (302) 655-0477</p>	<p>3</p> <p>1</p> <p>2</p> <p>3 TABLE OF CONTENTS</p> <p>4 TESTIMONY OF RANDALL HUGHES:</p> <p>5 Direct Examination by Mr. Horvath 4</p> <p>6 Certificate of Reporter 98</p> <p>7</p> <p>8</p> <p>9 INDEX TO EXHIBITS</p> <p>10 Plaintiffs Exhibit 58 15</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p>2</p> <p>1 APPEARANCES (CONTINUED):</p> <p>2</p> <p>3 JASON P. GOSSELIN, ESQUIRE</p> <p>4 Drinker, Biddle & Reath, LLP</p> <p>5 One Logan Square</p> <p>6 18th and Cherry Streets</p> <p>7 Philadelphia, PA 19103-6996</p> <p>8 Attorney for the Defendants</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>4</p> <p>1 (The videographer read the</p> <p>2 introduction, and the attorneys introduced</p> <p>3 themselves.)</p> <p>4 RANDALL HUGHES,</p> <p>5 HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:</p> <p>6 DIRECT EXAMINATION ON BEHALF OF THE PLAINTIFF</p> <p>7 BY MR. HORVATH:</p> <p>8 Q. Good afternoon. Have you ever been deposed</p> <p>9 before?</p> <p>10 A. Yes.</p> <p>11 Q. When?</p> <p>12 A. The last time was in December of 2005.</p> <p>13 Q. How many times have you been deposed?</p> <p>14 A. Ten or so, perhaps.</p> <p>15 Q. What were the natures of the actions?</p> <p>16 A. Mostly traffic-related accidents, civil</p> <p>17 suits, in those regards. Also, the latest was in a</p> <p>18 lawsuit filed against the State Police I did for my</p> <p>19 workplace.</p> <p>20 Q. Have you ever testified at trial?</p> <p>21 A. Yes.</p> <p>22 Q. How many times have you testified at trial?</p> <p>23 A. Many, many, many times.</p> <p>24 Q. And were these the same cases that you</p>

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<p>1 MR. GOSSELIN: Do you have an extra 2 copy? 3 MR. HORVATH: I do. 4 BY MR. HORVATH: 5 Q. Have you ever seen this document before? 6 A. I need to -- 7 Q. Okay. 8 A. The answer is I am not sure if I have read 9 this before or not. I have read a couple things on 10 ethics and integrity by the I think Ethics and 11 Integrity Commission after being elected. So I am not 12 sure if it was this exact document, but it seems 13 familiar to me. 14 Q. To be clear, in the upper right hand corner 15 there are three letters, BDF? 16 A. Uh-huh. 17 Q. Do you know what those letters might signify? 18 A. No, sir, I do not. 19 Q. Have you ever received any copies of board 20 policies or policies that pertain to board 21 governments? 22 A. Yes, sir, I have. 23 Q. And do those policies start with the letter 24 B?</p> <p style="text-align: center;">69</p>	<p>1 self interests? 2 A. Yes, it does. 3 Q. So, with the first paragraph that we read and 4 the last paragraph that we read, should the board, do 5 you feel that it's now appropriate for the board to 6 pass policies that are for the benefit of the board 7 member's individual constitutional rights? 8 A. Yes, I do, and the reason why -- 9 Q. I was going to say -- 10 A. You want to ask me first? Okay. I read that 11 first paragraph on the second page as not to bring or 12 bear influence upon any educational decisions that may 13 be made by staff or superintendents to benefit me 14 personally or a friend or a family member. That's how 15 I read that paragraph. 16 Q. But I think you had stated before that it is 17 an appropriate exercise of a board member's authority 18 to pass a policy that protects their own individual 19 constitutional rights? 20 A. As I said, because of future boards, as well. 21 Protecting constitutional rights is for all of us to 22 do. 23 Q. And what the board perceives as their own 24 individual rights that don't apply to anyone else in</p> <p style="text-align: center;">71</p>
<p>1 A. When I receive those, I read the verbiage, 2 and I have not looked for that, but I bet when I go 3 home I will look and see if they are on there or they 4 will be. 5 Q. I am going to represent that this is a copy 6 of the school board's, school board member ethics 7 policy. Under number one on the first page, the third 8 paragraph down, it states that, "The public expects my 9 first and greatest concern to be in the best interests 10 of each and every one of these young people without 11 distinction as to who they are or what their 12 background may be." 13 To be clear, does this paragraph state that 14 the board, a board member's primary concern should be 15 the students of the district? 16 A. Yes, it does. 17 Q. And on the second page, the third paragraph 18 down, it says, "To resist every temptation and outside 19 pressure to use my position as a school board member 20 to benefit either myself or any other individual or 21 agency apart from the total interest of the school 22 district." 23 Does that paragraph suggest to you that board 24 members should not operate out of their own individual</p> <p style="text-align: center;">70</p>	<p>1 the district? 2 A. To future boards, yes. 3 Q. Outside of the board? 4 A. Protecting a constitutional right is 5 everyone's responsibility. 6 Q. I am going to read to you four prayers. I am 7 going to want your opinion as to whether or not those 8 prayers violate the policy. 9 The first prayer, "Lord, I pray that you 10 correct the heathens before me now to the truth that 11 comes by knowing you." Oh, I'm sorry, I misread it. 12 "Lord, I pray that you convert the heathens before me 13 now to the truth that comes by knowing you." 14 A. Yes, I believe that that -- Again, I am 15 basing this on is that a part of or is that the sole? 16 That's it, period? Based on those exact words you 17 just said, yes, that could be a conflict. 18 Q. And why would it be in conflict with policy? 19 A. I looked at paragraph number three. It's 20 kind of mean. 21 Q. It's kind of mean? 22 A. Kind of mean when you are saying that. 23 Q. What's mean about it? 24 A. You are referring to someone as a heathen.</p> <p style="text-align: center;">72</p>

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<p>1 Q. Is there -- Suppose it wasn't heathen, it was 2 just "the individuals in front of me." 3 A. Again, read it without the heathen. 4 Q. "Lord, I pray that you convert the people 5 before me to the truth that comes by knowing you." 6 A. Certainly the word convert. 7 Q. So it's a combination of both heathens and 8 convert that you find problematic? 9 A. Uh-huh. 10 Q. And each one individually would pose a 11 problem? 12 A. Yes, sir, I believe so. 13 Q. I am going to hand you what has been 14 previously marked as PX35, which reads, "Do not put 15 your trust in princes and mortal men who cannot even 16 save themselves. When their spirit departs, they 17 return to the ground. On that very day, their plans 18 come to nothing. Blessed is he whose help is the God 19 of Jacob, whose hope is in the Lord his God, the maker 20 of heaven and earth, the sea and everything in them, 21 the Lord who remains faithful forever. He upholds the 22 cause of the oppressed and gives food to the hungry. 23 The Lord sets prisoners free. The Lord gives sight to 24 the blind. The Lord lifts up those who are bowed</p> <p style="text-align: center;">73</p>	<p>1 trying to espouse my views forcefully onto someone 2 else. 3 Q. Do you believe that the last sentence of the 4 prayer is not proselytizing? 5 A. No, I do not. 6 Q. How do you think you would respond to this 7 prayer if you were not a Christian? 8 A. Mr. Horvath, that's very difficult to answer. 9 I would probably rely back on the very first thing 10 that I said, did I find it offensive. No, I did not. 11 Q. If you were not a Christian and you heard, 12 "for the wages of sin is death but the gift of God is 13 eternal life through Jesus Christ our Lord," do you 14 think you would find that offensive? 15 A. In the spirit or in the tone in which you 16 read this, I did not find it offensive, and I don't -- 17 It's hard for me to answer that question other than to 18 say I did not find it offensive. 19 Q. Do you think your personal faith as a 20 Christian might impact your views on whether this 21 particular prayer is proselytizing? 22 A. Yes, sir, I am sure that it does. 23 Q. To put a variation on this, suppose the last 24 sentence read, "For the wages of sin is death, but the</p> <p style="text-align: center;">75</p>
<p>1 down. The Lord loves the righteous. The Lord watches 2 over the alien and sustains the fatherless and the 3 widow, but he frustrates the ways of the wicked. For 4 the wages of sin is death, but the gift of God is 5 eternal life through Jesus Christ our Lord." 6 Do you believe that this prayer would be 7 permissible under the policy? 8 A. Yes, sir. 9 Q. How did you make that determination? 10 A. I did not find it offensive. 11 Q. Is that the touchstone you use for whether or 12 not a prayer violates the policy, whether or not you 13 find it offensive? 14 A. I don't see -- Yes, that's the first thing I 15 am going to rely on, how do I perceive that. I do not 16 find it offensive. I don't see where it's violating 17 number three of the policy, paragraph number three. 18 Q. I take it you do not view the prayer in PX35 19 as proselytizing? 20 A. Which one is that? 21 Q. The one I just handed you? 22 A. No, sir, I don't. 23 Q. What does proselytizing mean to you? 24 A. Again, to me it's preaching or negative,</p> <p style="text-align: center;">74</p>	<p>1 gift of Allah is eternal life through his prophet 2 Muhammed." 3 A. Again, I do not find that offensive. There 4 are more people in this world than I. 5 Q. Uh-huh. 6 A. And, as I said, my religion is very 7 individual, very personal, and other people may find 8 their religion that way, as well, and I don't find it 9 offensive. I wouldn't find it offensive if you insert 10 any other deity that you like. 11 Q. I have another prayer. This has been 12 previously marked PX45. "Heavenly Father, thank you 13 for this great occasion, for the work, the effort, the 14 joys and everything that led up to this point in time. 15 Thank you for your guidance in this event. We pray 16 for your direction in the lives of each of these 17 school board members. We pray that you direct them 18 into the truth and eventually the truth that comes by 19 knowing Jesus. We also pray that you would be with 20 them at this time. We ask these things in Jesus's 21 name. Amen." 22 Do you believe that this prayer would violate 23 paragraph three of the policy? 24 A. No.</p> <p style="text-align: center;">76</p>

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<p>1 Q. I take it that you do not view this prayer as 2 proselytizing? 3 A. No. 4 Q. And did you reach that conclusion again 5 because you did not find this prayer offensive? 6 A. That and the fact that it specifically states 7 to the board members. It refers specifically to board 8 members. 9 Q. Is your primary concern whether or not a 10 prayer is directed to the board members or mentions 11 anyone outside the board? Is that the first step in 12 your analysis? 13 A. I am not so sure. It's the first step. 14 There may be multiple, multiple steps that consciously 15 I am not able to verbalize to you, but I don't find it 16 offensive, I do not find it's in violation of the 17 policy. 18 Q. And you do not view the phrase, "We pray that 19 you direct them into the truth and eventually the 20 truth that comes by knowing Jesus," as an attempt to 21 convert anyone who is hearing that or convert the 22 board members? 23 A. No. 24 Q. I have one last one. This isn't written</p> <p style="text-align: center;">77</p>	<p>1 A. Yes, yes. 2 Q. And, I think we have established before, but 3 I wanted to be clear again, you have never been 4 offered an opportunity to open a meeting with a prayer 5 or a moment of silence? 6 A. Not that I recall, no. 7 Q. Do you know if the board ever considered, 8 didn't discuss with you, but at any point in the past 9 ever considered whether to open its meetings with a 10 moment of silence? 11 A. No, I do not. 12 Q. Can you look at paragraph number two of the 13 policy? It states, "On a rotating basis one 14 individual adult board member per meeting will be 15 given the opportunity to offer up prayer or request a 16 moment of silence. If the member chooses not to 17 exercise this opportunity, the next member in rotation 18 shall have the opportunity." 19 Am I correct that means that if an individual 20 passes, the prayer or moment of silence opportunity 21 will continue on until you get a board member who 22 takes up the opportunity? So, in other words, suppose 23 you pass, and then the next individual in line, 24 suppose Hattier passes, would it continue to pass</p> <p style="text-align: center;">79</p>
<p>1 down, so if you can't follow along, I will read it 2 again. 3 "Allah, we offer you our school bus drivers, 4 we offer you our superintendent, our administrators, 5 and our secretaries. We offer you our teachers and 6 our parents. Finally, we offer you our students. 7 Peace be unto your prophet, Muhammed." How do you 8 view that prayer? 9 A. I do not find it offensive, and I do not find 10 that it's in violation of this policy. 11 Q. How would you feel if you were in the 12 audience hearing that prayer and hearing that you were 13 being offered to a deity of a different religion? 14 A. I do not find it offensive at all. I don't 15 find it offensive at all. 16 Q. Do you think the school board could open its 17 meetings with a moment of silence instead of a prayer? 18 A. Yes, that is an option. 19 Q. Have you ever discussed with any board member 20 whether the board should open its meetings with a 21 moment of silence? 22 A. No, I have not. 23 Q. If given the opportunity, would you open a 24 board meeting with a moment of silence?</p> <p style="text-align: center;">78</p>	<p>1 between the board members until a board member chooses 2 to open the meeting with a prayer or moment of 3 silence? 4 A. That could be a way that it could happen, but 5 I am not so sure that's how it happens. Like I said, 6 I don't recall ever being asked to do that. 7 Q. Just as a matter of reading the policy, 8 itself. 9 A. Yeah, I don't know if that's something that 10 could be worked out. I don't know if somebody wanted 11 to say, "I would like to offer the prayer." Perhaps 12 that's how they do it. Like I say, I have not been 13 asked. Oftentimes, I am running late, but I have not 14 been asked. 15 Q. Based on reading paragraph number two of the 16 policy, would you say, would you agree that in order 17 for a board meeting to not open with a prayer or 18 moment of silence, each board member would have to 19 decline the opportunity? 20 A. Yes. 21 Q. Put another way, if at least one board member 22 wants to open the meeting with a prayer, the meeting 23 is going to open with a prayer? 24 A. Yes.</p> <p style="text-align: center;">80</p>

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<p>1 A. Yes, I received lots of questions from a lot 2 of different local newspapers. One of the questions a 3 lot of times did deal with the prayer issue and my 4 feelings. Since I had already been appointed to the 5 board and I was operating under the gag order, my 6 response was, "Pending litigation, I am just not at 7 liberty to discuss that." 8 Q. Did anyone from the public ask you about 9 board prayer? 10 A. If they did, my answer was, "There is a gag 11 order, pending litigation, we can't talk about that." 12 I don't have that many -- There was no campaign -- 13 There was no stump speeches made or anything like 14 that. 15 Just you might see someone in the supermarket 16 and talk to them about some school board issues, but I 17 don't recall that being a very specific question asked 18 to me. 19 Q. Do you think it's understood by the public 20 that you support board prayer? 21 A. No, I wouldn't necessarily say that that's 22 understood. And are you implying that I do support 23 school prayer? 24 Q. Okay, maybe I will --</p> <p style="text-align: center;">85</p>	<p>1 was a bit misinformed. 2 Q. You refer to the gag order. This gag order 3 didn't prevent you from telling your constituents 4 whether or not you supported board prayer? Did you 5 tell constituents that the gag order prevented you 6 from -- 7 A. Yeah, my answers that I put out to the 8 newspapers were that I didn't want to discuss that 9 topic or I couldn't discuss that because of pending 10 litigation. 11 Q. Let's go back to your opponent. Am I 12 correct, at the very least, that the perception became 13 that he opposed board prayer? 14 A. Yeah, I believe think that would be -- 15 Q. And that was an accurate representation -- 16 I'm sorry, I guess I should have let you finish. 17 A. Yes. 18 Q. And was that an accurate representation of 19 what you understood his position to be? 20 A. Yes. 21 Q. Do you believe that affected the campaign? 22 A. My opponent had some, quite a few different 23 ideas. I am not so sure that one particular answer 24 that he gave led to his demise. I am not so sure.</p> <p style="text-align: center;">87</p>
<p>1 MR. GOSSELIN: He said board prayer. 2 THE WITNESS: Oh, board prayer? 3 MR. HORVATH: Yeah. 4 THE WITNESS: Oh, okay. 5 MR. GOSSELIN: You mean the policy. 6 MR. HORVATH: Yes. 7 MR. GOSSELIN: This policy here. 8 THE WITNESS: Okay. Okay. 9 BY MR. HORVATH: 10 Q. So, to be clear on this, do you think the 11 public understands you to support policy BDA.1 in the 12 board's prayer practice? 13 A. Probably. 14 Q. And do you think they understood that during 15 the election? 16 A. I am not -- I don't know. I didn't -- Like I 17 said, when it came to any talk about the litigation, I 18 didn't say a word about it. 19 Q. Do you know what your opponent's view on 20 board prayer was? 21 A. Yes, he was to stop board prayer, stop -- It 22 was kind of a bit skewed in that it was drawn out to 23 include school prayer, prayer in school, took on a 24 whole different light. I think perhaps the gentleman</p> <p style="text-align: center;">86</p>	<p>1 Q. Did anyone from the community tell you that 2 they were not going to vote for him because he opposed 3 board prayer? 4 A. I don't recall. Well, people who supported 5 me said, "I am going to vote for you." They didn't 6 say, "I am going to vote for you because of X, Y or 7 Z." 8 Q. Did anyone say they were going to vote for 9 you because you supported board prayer? 10 A. No, I don't recall having that conversation 11 with anyone. 12 Q. Do you believe that someone could get, in the 13 2006 election, do you believe that anyone could have 14 been elected to the board who openly opposed board 15 prayer? 16 A. If you articulate your point of view and some 17 of the reasons behind it, perhaps, yes. 18 Q. Has anyone told you that they see this case 19 as about protecting Christian values? 20 A. Yes, I have heard that. Have they told me 21 that? I don't -- I have not been told that, but I 22 have kind of heard. Again, that's like supermarket or 23 Wawa coffee stand talk sometimes. You kind of hear 24 these kinds of things.</p> <p style="text-align: center;">88</p>

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<p>1 Q. Have these things been told to you, or did 2 you overhear it? 3 A. Well, if I heard it, then it was told to me. 4 But, again, it wasn't someone grabbing me by the shirt 5 collar and saying, "This is about maintaining 6 Christian values and beliefs." 7 Q. Did anyone say that the board's prayer 8 practice, itself, was about protecting Christian 9 values? 10 A. I don't recall that, that terminology being 11 used. 12 Q. Do you think people understand this case as 13 involving the board prayer policy? 14 A. To be perfectly honest with you, I think 15 there is a lot of misinformation. A lot of people are 16 out there and don't have all the information from 17 which to make a decision on this. Shortsightedness, a 18 particular mind set, but the perception out there is 19 it comes down to a single issue or something that it 20 may or may not be, so I think -- I don't know if the 21 gag order was helpful or not with people not going out 22 and talking about it. 23 Q. What's the single issue that you believe the 24 public perceives this case is about?</p> <p style="text-align: center;">89</p>	<p>1 there are many sides to every story and there are many 2 facets to this particular case. 3 Q. Do you believe that a gag order is still in 4 place? 5 A. Yes, I am operating under that -- I am going 6 to operate under that until otherwise directed by 7 either Jason or a judge. 8 Q. Has anyone told you that a gag order is no 9 longer in place, aside from your attorneys or a judge? 10 A. No. Has anyone ever -- I'm sorry, say that 11 again, please. 12 Q. Has, aside from your attorneys or a judge, 13 has anyone told you that a gag order is no longer in 14 place? 15 A. There was some discussion in an executive 16 session if there was or there wasn't, but the bottom 17 line it came down to, as I left there, my 18 understanding was that there was, do not discuss. 19 Q. And you have continued to operate under that 20 assumption since then? 21 A. That's the way I have been operating, yes, 22 sir. 23 Q. Has anyone told you they believe the ACLU is 24 involved with this case?</p> <p style="text-align: center;">91</p>
<p>1 A. I believe the public thinks this is about 2 prayer in schools. 3 Q. Have you ever heard anyone say that this case 4 is about board prayer? 5 A. Mr. Horvath, I can't sit here and tell you 6 that I have heard that. I just -- I believe that the 7 perception out there in the public is that this case 8 is about prayer in schools. 9 Q. Do you know if any school board member has 10 campaigned for election or re-election on the ground 11 that they support school board prayer? 12 A. We had several elections last time. I have a 13 lot of things going on. I didn't have an opportunity 14 to follow everyone else's campaign, if you will call a 15 school board election a campaign. How and what 16 exactly they said or didn't say at their different 17 functions, I don't know. 18 Q. You mentioned before what you characterized 19 as a misrepresentation that this case is about prayer 20 in schools. Have you done anything to correct that 21 mis-perception? 22 A. Again, how I refer to anything that's brought 23 up about this case is there is a gag order. My 24 responses are very limited, pretty much to zero, and</p> <p style="text-align: center;">90</p>	<p>1 A. I believe at executive sessions there have 2 been some mention that the ACLU is behind this case, 3 yes. 4 Q. Do you believe that the ACLU is behind this 5 case? 6 A. I don't know that for a fact. 7 Q. Have you ever discussed with someone in the 8 community as to whether or not the ACLU is involved in 9 this case? 10 A. No, sir. 11 Q. Has anyone told you that they see this case 12 as standing up to the ACLU? 13 A. No, I don't recall having that conversation. 14 Q. Which board members told you that the ACLU 15 was involved with this case? 16 A. Again, I think that's a discussion in 17 executive session, and I cannot -- I feel like I am 18 pointing fingers, because I am not 100 percent sure, 19 but I believe that perhaps Nina Lou Bunting may have 20 mentioned that. 21 Q. Have any of the board members described the 22 ACLU as anti Christian? 23 A. No, I don't recall hearing that. 24 Q. Has anyone in the public described the ACLU</p> <p style="text-align: center;">92</p>

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<p>1 as anti Christian that you are aware of?</p> <p>2 A. Not that I am aware of, but you have to</p> <p>3 remember that not that long ago our community, the</p> <p>4 Seaford, western Sussex community had a visit from</p> <p>5 Westboro Baptist Church at a soldier's funeral which</p> <p>6 did, if you will, muddy the waters with some ACLU</p> <p>7 things were bantering around about that. So I don't</p> <p>8 remember the public ever telling me anything about</p> <p>9 ACLU and the school district, but it has been used in</p> <p>10 that context with Westboro Baptist Church.</p> <p>11 Q. Could you explain a little bit more what</p> <p>12 happened in that context?</p> <p>13 A. The Westboro Baptist Church?</p> <p>14 Q. Yes, please.</p> <p>15 A. Pretty inflammatory comments being made,</p> <p>16 viewed as derogatory by the public, towards the family</p> <p>17 and to the soldier that had been killed.</p> <p>18 Q. And how did the ACLU become involved in that?</p> <p>19 A. The perception was either it was or it</p> <p>20 wasn't -- I don't know if the perception was that</p> <p>21 they were protecting the Westboro Baptist Church,</p> <p>22 they were the legal arm of the Westboro Baptist</p> <p>23 Church. I don't know for a fact if that's factual or</p> <p>24 not.</p> <p style="text-align: center;">93</p>	<p>1 good schools and making some wise decisions. A lot of</p> <p>2 my -- A lot of my campaign was along those avenues.</p> <p>3 Q. You limited your answer on that to your</p> <p>4 campaign and your interests on the school board. Can</p> <p>5 we expand that to the other school board members who</p> <p>6 were either elected or reelected in 2006? In other</p> <p>7 words, have you discussed with anyone whether their</p> <p>8 election or re-election was an endorsement of the</p> <p>9 stance the school board has taken in support of school</p> <p>10 board prayer?</p> <p>11 A. No, I have not.</p> <p>12 Q. And you have heard --</p> <p>13 A. I have not discussed that with them.</p> <p>14 Q. With anyone from the public?</p> <p>15 A. No.</p> <p>16 Q. Do you know if school board members</p> <p>17 campaigned stating that they were, a vote for them</p> <p>18 would be a vote for prayer in fighting the ACLU?</p> <p>19 A. I do not know that to be a fact.</p> <p>20 MR. HORVATH: Thank you very much. I</p> <p>21 don't think I have any more questions.</p> <p>22 THE WITNESS: Thank you.</p> <p>23 VIDEOGRAPHER: Deposition ending</p> <p>24 approximately 5:06 p.m.</p> <p style="text-align: center;">95</p>
<p>1 Q. So people understood -- To understand your</p> <p>2 testimony there, you understand the public perceptions</p> <p>3 being the ACLU was protecting an organization that was</p> <p>4 making disparaging comments about a dead soldier or</p> <p>5 the soldier's family?</p> <p>6 A. That's the perception that I had heard, yes,</p> <p>7 sir.</p> <p>8 Q. And at any point during that -- At any point</p> <p>9 in that series of events did anyone make a reference</p> <p>10 to the ACLU as anti-Christian?</p> <p>11 A. No, I have not heard ACLU anti-Christian, no.</p> <p>12 Q. Okay. Have you discussed with anyone whether</p> <p>13 the 2006 election was an enforcement of the stance the</p> <p>14 school board has taken in support of school board</p> <p>15 prayer?</p> <p>16 A. No.</p> <p>17 Q. Have you ever heard anyone say that?</p> <p>18 A. Not to me. My stance, if I can go for a</p> <p>19 little bit further, construction costs, the huge</p> <p>20 amount of monies we spend as a school district in</p> <p>21 construction and projects. All right? I am the</p> <p>22 construction guy.</p> <p>23 I think that we have to hold some folks</p> <p>24 accountable with their tax dollars in building some</p> <p style="text-align: center;">94</p>	<p>1 CERTIFICATE</p> <p>2 I, Lorena J. Hartnett, a Notary Public and</p> <p>3 Registered Professional Reporter, do hereby certify</p> <p>4 that the witness, RANDALL HUGHES, was by me first</p> <p>5 duly sworn to testify the truth, the whole truth, and</p> <p>6 nothing but the truth; that the foregoing deposition</p> <p>7 was taken at the time and place stated herein; and</p> <p>8 that the said deposition was recorded stenographically</p> <p>9 by me and then reduced to typewriting under my</p> <p>10 direction, and constitutes a true record of the</p> <p>11 testimony given by said witness.</p> <p>12 I further certify that the inspection,</p> <p>13 reading and signing of said deposition was not waived</p> <p>14 by counsel for the parties and by the witness.</p> <p>15 I further certify that I am not a relative,</p> <p>16 employee, or attorney of any of the parties or a</p> <p>17 relative or employee of either counsel, and that I am</p> <p>18 in no way interested directly or indirectly in this</p> <p>19 action.</p> <p>20 IN WITNESS WHEREOF, I have hereunto set my</p> <p>21 hand and affixed my seal of office on this 20th day of</p> <p>22 October 2006.</p> <p>23</p> <p>24 Cert. #134-RPR, Exp. 01-31-2008</p> <p style="text-align: center;">96</p>

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<p>1 Q. Under paragraph number five, it states that, 2 "The prayer or moment of silence should be in accord 3 with the freedom of conscience, speech and religion of 4 the individual board member." 5 Is it possible that a board member could 6 decide that he or she wouldn't want the meeting to 7 open with a prayer or moment of silence consistent 8 with their freedom of conscience? 9 A. Yes, that is possible. 10 Q. Would the policy deny them that opportunity, 11 provided that at least one board member wants the 12 meeting to open with a prayer or moment of silence? 13 A. There could be some conflict there, yes. 14 Q. Do you know, and not speaking of yourself, do 15 you know if any board member has declined an 16 opportunity to open a meeting with prayer? 17 A. I do not know. 18 Q. Has a board member ever said they wanted to 19 open a meeting with a prayer but wanted someone from 20 the audience to give the prayer? 21 A. I don't recall that ever happening. 22 Q. Do you think the policy permits someone other 23 than a board member to give the prayer? 24 A. No, I don't think this policy would permit</p> <p style="text-align: center;">81</p>	<p>1 session to open with a prayer? 2 A. I don't know. 3 Q. Did the board deliberate in the executive 4 session? 5 A. Yes. 6 Q. Would the prayer have been beneficial in the 7 executive session for those deliberations? 8 A. That's an individual, each individual has to 9 answer that question. 10 Q. Were those deliberations conducted in a 11 solemn manner? 12 A. Some executive sessions are lively. Yes, the 13 overall answer is yes. 14 Q. So a prayer wasn't necessary for those 15 deliberations to be conducted in a solemn manner? 16 A. That is correct. 17 Q. I want to clarify. Have any special meetings 18 been opened with a prayer? 19 A. Special meetings? Um, I don't think so. I 20 don't think so. Again, I cannot be 100 percent sure 21 on that, but I don't think so. 22 Q. And, again, has the board or, similarly to 23 before, has the board deliberated during those special 24 meetings?</p> <p style="text-align: center;">83</p>
<p>1 that. 2 Q. Does the board open its special meetings or 3 its executive sessions with a prayer? 4 A. Executive session? No, no, sir. 5 Q. And why is that? 6 A. I don't know. I would assume that if you go 7 back to paragraph one, the proceedings have already 8 been solemnified, if you will, so -- You can say it 9 better, Jason. 10 MR. GOSSELIN: I keep messing it up. 11 I don't know if it's solemnize or solemnify. 12 A. Yeah, solemnify. That's much better. It's 13 done once. How many times -- And I know you -- I 14 don't want to -- It's okay to pray more than once, 15 but, you know, how many times in the same course of 16 business would you do that and why would you do that? 17 Q. Since you joined the board, has the board 18 ever met in executive session before the regular 19 meeting? 20 A. Yes, it has. 21 Q. Did that executive session open with a 22 prayer? 23 A. No, it did not. 24 Q. Why did the board wait until the public</p> <p style="text-align: center;">82</p>	<p>1 A. Yes. 2 Q. And was the board able to deliberate in a 3 solemn manner? 4 A. Again, some of them were more lively than 5 others, but overall, yes. 6 Q. And a prayer wasn't necessary for those 7 special meetings to be conducted in a solemn manner? 8 A. That is correct. 9 VIDEOGRAPHER: Going off the record at 10 approximately 4:46 p.m. 11 (A recess was taken.) 12 VIDEOGRAPHER: Back on the record 13 approximately 4:51 p.m. 14 BY MR. HORVATH: 15 Q. Is it correct that you had to run for 16 re-election this year? 17 A. Yes. I had to run to be elected since I was 18 appointed. 19 Q. Okay. Was your campaign contested? 20 A. Yes. 21 Q. During the campaign did anyone discuss with 22 you school board prayer? 23 A. From media? Are you referring to the media. 24 Q. We will start with media.</p> <p style="text-align: center;">84</p>

EXHIBIT 12

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<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE DISTRICT OF DELAWARE 3 MONA DOBRICH and MARCO : C.A. No. 15-120 (JJF) 4 DOBRICH, Individually and : 5 as parents and next friend : 6 of ALEXANDER DOBRICH, : 7 SAMANTHA DOBRICH, JANE DOE : 8 and JOHN DOE, Individually : 9 and as parents and next : 10 friend of JORDAN DOE and : 11 JAMIE DOE, : 12 : 13 Plaintiffs, : 14 : 15 v. : 16 : 17 INDIAN RIVER SCHOOL : 18 DISTRICT, et al., : 19 : 20 Defendants. : 21 : 22 Videotaped Deposition of DR. MARK A. ISAACS, 23 taken pursuant to notice, on Wednesday, October 18, 24 2006 at 1:36 p.m. at 31 Hosler Street, Selbyville, Delaware, reported by Lorena J. Hartnett, a Registered Professional Reporter and Notary Public. APPEARANCES: THOMAS ALLINGHAM, ESQUIRE RICHARD HORVATH, ESQUIRE BRIAN LENHARD, ESQUIRE One Rodney Square Wilmington, DE 19801 Attorney for the Plaintiff WILCOX & FETZER 1330 King Street - Wilmington, DE 19801 (302) 655-0477 www.wilfet.com</p>	<p>3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p> <p>TABLE OF CONTENTS TESTIMONY OF DR. MARK A. ISAACS: Direct Examination by Mr. Allingham. 3 Certificate of Reporter 73</p>
<p>1 2 3 4 APPEARANCES: (CONTINUED) 5 JARROD SHAU, ESQUIRE 6 Drinker, Biddle & Reath, LLP 7 One Logan Square 8 18th and Cherry Streets 9 Philadelphia, PA 19103-6996 10 Attorney for the Defendants 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>	<p>4 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p> <p>VIDEOGRAPHER: This is the videotaped deposition of Dr. Mark A. Isaacs, taken by the plaintiff in the matter of Dobrich et al. versus Indian River School District, et al.. Civil Action Number 15-120. The deposition is taking place at 31 Hosler Boulevard in Selbyville, Delaware, on October 18, 2006 at approximately 1:36 p.m. The court reporter is Lorena Hartnett from the firm of Wilcox & Fetzer. My name is Mark Buckmaster, a video specialist from Discovery Video Services Incorporated in association with Wilcox & Fetzer. Counsel will now introduce themselves and the reporter will swear in the witness. MR. ALLINGHAM: Tom Allingham representing the plaintiffs. With me is Brian Lenhard and Richard Horvath. MR. SHAU: Jarrod Shau representing the defendants. DR. MARK A. ISAACS, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS: DIRECT EXAMINATION ON BEHALF OF THE PLAINTIFFS BY MR. ALLINGHAM:</p>

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1 A. Well, according to this, it gives any board
2 member the opportunity to express and pray to whoever
3 they want and however they want. So, to answer that
4 question, I would say yes.

5 Q. Your answer spoke to terms of reviewing text
6 of the policy and interpreting the policy. My
7 question had to do with comments by board members
8 during the consideration of the policy.

9 Did any board member ever say, in words or
10 substance, "We should adopt this policy because it
11 safeguards the rights of individual board members to
12 pray as they see fit."?

13 A. No.

14 Q. And when you say no, do you mean, "No, I
15 remember that that was never said," or "No, I don't
16 recall that that was ever said."?

17 A. No, I don't recall any board member
18 specifically saying, "Adopt this so we can pray."

19 Q. Paragraph three of the policy reads, quote,
20 "Such opportunity." And that opportunity is the
21 opportunity to open the meeting with a prayer;
22 correct, or a moment of silence?

23 A. (Nodding head)

24 Q. "Such opportunity shall not be used or

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1 exploited to proselytize, advance or convert anyone or
2 to derogate or otherwise disparage any particular
3 faith or belief."

4 Would you agree with me that that paragraph
5 imposes some limitations on the right of board members
6 to pray as they see fit?

7 A. Yes.

8 Q. And that was a limitation that you, as a
9 board member, thought was appropriate to include in
10 the policy?

11 A. Yes.

12 Q. What did you understand in the context of
13 this paragraph the prohibition against proselytizing
14 to mean?

15 A. I guess my interpretation of it would be that
16 you cannot use that opportunity to advance or promote
17 any one particular religion over another.

18 Q. Who had the responsibility to ensure that
19 that limitation was complied with?

20 A. I would assume that it would be left up to
21 the individual giving the prayer. I mean there wasn't
22 a police officer there to enforce anything or anything
23 like that.

24 Q. I know you weren't being facetious, and when

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1 I say enforce, that may have caused you to think about
2 police officers. I meant was it the board members
3 themselves who had the obligation to enforce this
4 limitation?

5 A. Yes.

6 Q. Now, do you recall any prayer that was
7 offered that you viewed as either violating paragraph
8 three or raising a question about whether it violated
9 paragraph three at anytime during your tenure after
10 the adoption of this policy?

11 A. No, not really, because, you know, my
12 interpretation of it was that each board member had
13 the opportunity to express as they felt fit as long as
14 it wasn't used to promote any one particular religion,
15 so, no, I don't remember any specific board prayer
16 that was more offensive or less offensive or anything
17 like that.

18 Q. I am going to offer -- I am going to give you
19 an example of a prayer that -- Well, I will let you
20 make the judgment, but I am going to give you a prayer
21 and ask you if it would have been given it would have
22 violated the policy. Okay?

23 "Oh, Lord, please convert the Jews in the
24 audience and ensure that they come to know our Lord

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1 Jesus Christ."

2 A. Yes, it would.

3 Q. That would violate paragraph three?

4 A. Yes.

5 Q. Now, suppose that a board member gave that
6 prayer which would violate, in your view, paragraph
7 three. What would be done? What would be the
8 response of the board?

9 A. As far as repercussions, you mean, or?

10 Q. Yes, if any?

11 A. I would assume that there would be dialogue
12 that would take place, probably in executive session,
13 to ask one of the board members why did you do that or
14 why did you say those words or --

15 Q. I purposely picked that extreme example so we
16 could explore what the board would do. I could ask
17 you what you would have done. That's an example that
18 seems to you to be a clear violation of paragraph
19 three. Would you have brought that to the president
20 or the individual board member's attention yourself?

21 A. Yes.

22 Q. And I take it what you would have done is to
23 say, "I believe that prayer was in violation of our
24 policy." Correct?

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<p>1 A. Yes.</p> <p>2 Q. At that point the horse would be out of the</p> <p>3 barn; right?</p> <p>4 A. Right.</p> <p>5 Q. On that prayer?</p> <p>6 A. Right.</p> <p>7 Q. Would you suggest that that person be taken</p> <p>8 out of the rotation to offer prayers thereafter, or do</p> <p>9 you think --</p> <p>10 A. No, I am not a one-strike man, so I would</p> <p>11 give them the opportunity to redeem themselves.</p> <p>12 Q. Okay. And if the board member then offered a</p> <p>13 prayer, you know, "Convert the heathens in the</p> <p>14 audience, please, Lord," you would at that point two</p> <p>15 strikes is enough?</p> <p>16 A. Yeah.</p> <p>17 Q. You wouldn't give them a third chance?</p> <p>18 A. Right.</p> <p>19 MR. ALLINGHAM: Okay. We are going to</p> <p>20 change the tape.</p> <p>21 THE WITNESS: Okay.</p> <p>22 VIDEOGRAPHER: Going off the record at</p> <p>23 2:34 p.m.</p> <p>24 (A recess was taken.)</p> <p>41</p>	<p>1 In your judgment as a board member, would</p> <p>2 that prayer be permitted or be prohibited by paragraph</p> <p>3 three of the policy?</p> <p>4 A. It's not nondenominational.</p> <p>5 Q. But the policy doesn't require that a prayer</p> <p>6 be nondenominational. The policy simply requires that</p> <p>7 the prayer not be used or exploited to proselytize,</p> <p>8 advance or convert anyone or to derogate or otherwise</p> <p>9 disparage any particular faith. So, in light of that,</p> <p>10 would you view this as --</p> <p>11 A. No, I would not view this as bad.</p> <p>12 Q. It would be permitted under paragraph three?</p> <p>13 A. Yes, yes.</p> <p>14 Q. And, to put it in the language of paragraph</p> <p>15 three, you would not view that prayer as --</p> <p>16 A. Proselytizing.</p> <p>17 Q. -- proselytizing?</p> <p>18 A. No, sir.</p> <p>19 Q. This prayer has been marked as PX45. It</p> <p>20 reads, "Heavenly Father, thank you for this great</p> <p>21 occasion, for the work, the effort, the joys and</p> <p>22 everything that led up to this point in time.</p> <p>23 Thank you for your guidance in this event. We pray</p> <p>24 for your direction in the lives of each of these</p> <p>43</p>
<p>1 VIDEOGRAPHER: Going back on the</p> <p>2 record at 2:39 p.m.</p> <p>3 BY MR. ALLINGHAM:</p> <p>4 Q. Dr. Isaacs, I am going to show you a second</p> <p>5 prayer, and this one is long, so I am going to give it</p> <p>6 to you in writing. We have previously marked this as</p> <p>7 PX35. I will read it into the record, but follow</p> <p>8 along as we go.</p> <p>9 "Do not put your trust in princes, in mortal</p> <p>10 men who cannot even save themselves. When their</p> <p>11 spirit departs, they return to the ground. On that</p> <p>12 very day, their plans come to nothing. Blessed is he</p> <p>13 whose help is the God of Jacob, whose hope is in the</p> <p>14 Lord, his God, the maker of heaven and earth, the sea,</p> <p>15 and everything in them, the Lord who remains faithful</p> <p>16 forever. He upholds the cause of the oppressed and</p> <p>17 gives food to the hungry. The Lord sets prisoners</p> <p>18 free. The Lord gives sight to the blind. The Lord</p> <p>19 lifts up those who are bowed down. The Lord loves the</p> <p>20 righteous. The Lord watches over the alien and</p> <p>21 sustains the fatherless and the widow, but he</p> <p>22 frustrates the ways of the wicked. For the wages of</p> <p>23 sin is death, but the gift of God is eternal life</p> <p>24 through Jesus Christ our Lord."</p> <p>42</p>	<p>1 school board members. We pray that you direct them</p> <p>2 into the truth and eventually the truth that comes by</p> <p>3 knowing Jesus. We also pray that you would be with</p> <p>4 them at this time. We ask these things in Jesus's</p> <p>5 name. Amen."</p> <p>6 Do you view that prayer as proselytizing?</p> <p>7 A. No. It's not nondenominational, but no.</p> <p>8 Q. You have said that several times. Do I</p> <p>9 correctly infer from that that, as a board member, you</p> <p>10 would have preferred that the prayers that are offered</p> <p>11 to open a meeting be nondenominational?</p> <p>12 A. I think everybody should be free to express</p> <p>13 how they choose to do so, so I would say it's a matter</p> <p>14 of interpretation. I mean this goes in accordance</p> <p>15 with what would be number three, any such prayer may</p> <p>16 be sectarian or non-sectarian, so it's following the</p> <p>17 policy, I guess, is what I am saying, but.</p> <p>18 Q. Let me ask you this question: Is it possible</p> <p>19 for a prayer to be sectarian, that is directed to a</p> <p>20 particular deity, and at the same time not be</p> <p>21 proselytizing?</p> <p>22 A. I guess when I think of proselytizing, I am</p> <p>23 thinking of someone standing up at the pulpit saying,</p> <p>24 "You will do this or this is the way you should go or</p> <p>44</p>

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1 your attention to those words?
 2 A. No.
 3 Q. Halfway through the second page there is a
 4 whereas clause that talks about the American Civil
 5 Liberties Union. Do you have any recollection of a
 6 discussion of the American Civil Liberties Union
 7 during the discussion of this school board prayer?
 8 A. You mean by board?
 9 Q. Yes, by board members.
 10 A. No, but I know that the public felt American
 11 Civil Liberties Union -- I mean there is a sentiment
 12 there that the ACLU is taking away rights of people by
 13 the general public. But no, not that I recall.
 14 Q. So you don't recall any discussion at the
 15 board level or at the Policy Committee -- I guess I am
 16 just going to assume you weren't at Policy Committee
 17 meetings. Okay?
 18 A. Yes, that's a good assumption.
 19 Q. Do you recall a discussion of any kind at the
 20 board level of the involvement of the ACLU in this
 21 litigation?
 22 A. Well, yes, I remember, if I am not mistaken,
 23 that one of the board minutes add that there was
 24 someone there from the ACLU that actually spoke, if I

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1 am not mistaken, but.
 2 Q. Your memory is accurate. Do you recall the
 3 name of Dru Fennel?
 4 A. No.
 5 Q. Was the person who spoke a woman?
 6 A. Yes.
 7 Q. And did she speak at a meeting at which
 8 Mrs. Dobrich also spoke?
 9 A. Good question.
 10 Q. That was a statement by a representative of
 11 the ACLU. Do you recall discussions by board member
 12 of the ACLU's involvement in this litigation?
 13 A. Um, maybe just questioning whether they were
 14 involved in it, but no lengthy deliberation about
 15 anything like that.
 16 Q. Let me come back to your statement about the
 17 public. Do you understand or did you understand when
 18 you were on the board that the public viewed the
 19 board's defense of this lawsuit as a defense of
 20 Christian values?
 21 A. Some did.
 22 Q. How did you find that out? Did they tell you
 23 that?
 24 A. I am sure just in grocery stores and I mean

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1 obviously by comments of the general public, but.
 2 Q. Did you understand, Dr. Isaacs, that that was
 3 a widely held view of the public? I am not talking of
 4 the board members now, I am talking about the public.
 5 A. I wouldn't say -- I would not say it's a
 6 widely held view. I would just say it was a view.
 7 Q. Which you heard from more than one person?
 8 A. Right.
 9 Q. These are hard things to remember, but can
 10 you estimate the number of people who said that to you
 11 in words or substance? Are we talking a dozen?
 12 A. No.
 13 Q. A hundred?
 14 A. No.
 15 Q. Two?
 16 A. No, no, no, not even five. If it didn't have
 17 something to do with athletics or why the budget was
 18 overspent, they were the main substance of what I was
 19 dealing with.
 20 Q. The next clause on page two reads, "Whereas
 21 the board has obtained the legal advice of two
 22 competent and experienced constitutional attorneys,
 23 John W. Whitehead, Esquire, and Thomas S. Neuberger
 24 Esquire, that prayer to open board meetings is

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1 constitutional in the United States Court of Appeals
 2 for the Third Circuit, which includes Delaware, and
 3 legal counsel have identified the following legal
 4 authority in support of their legal opinion."
 5 Do you recall having read something to that
 6 effect at anytime during your consideration of the
 7 board prayer policy?
 8 A. No, I don't.
 9 Q. Is it correct that the school board obtained
 10 the legal advice of two confident and experienced
 11 constitutional attorneys that prayer to open board
 12 meetings is constitutional?
 13 A. I know a lot of questions were asked.
 14 Whether you would say that you got their legal advice
 15 from it, according to this, yes.
 16 Q. When you say "a lot of questions were asked,"
 17 you mean questions were asked by board members of
 18 Mr. Neuberger?
 19 A. Yes.
 20 Q. And did Mr. Neuberger respond?
 21 A. Yes.
 22 Q. And is the substance of his response
 23 reflected in this memorandum prepared by
 24 Mr. Neuberger?

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EXHIBIT 13

McCabe, Elaine (Video) 10/17/2006 9:02:00 AM

<p>1 IN THE UNITED STATES DISTRICT COURT 2 IN AND FOR THE DISTRICT OF DELAWARE 3 MONA DOBRICH and MARCO : Case No. 15-120 DOBRICH, Individually and : 4 as parents and next friend : of ALEXANDER DOBRICH, : 5 SAMANTHA DOBRICH, JANE DOE : and JOHN DOE, Individually : 6 and as parents and next : friend of JORDAN DOE and : 7 JAMIE DOE, : 8 Plaintiffs, : 9 v. : 10 INDIAN RIVER SCHOOL : DISTRICT, et al., : 11 Defendants. : 12 : 13 Video Deposition of ELAINE MCCABE, taken pursuant to notice, on Tuesday, October 17, 2006 14 at 9:02 a.m. at 31 Hosler Street, Selbyville, Delaware, reported by Lorena J. Hartnett, a Registered 15 Professional Reporter and Notary Public. 16 : 17 APPEARANCES: 18 RICHARD HORVATH, ESQUIRE BRIAN G. LENHARD, ESQUIRE 19 Skadden, Arps, Slate, Meagher & Flom One Rodney Square 20 Wilmington, DE 19801 Attorneys for the Plaintiff 21 : 22 WILCOX & FETZER 1330 King Street - Wilmington, DE 19801 23 (302) 655-0477 www.wilfet.com 24</p>	<p>3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p> <p>TABLE OF CONTENTS</p> <p>TESTIMONY OF ELAINE MCCABE:</p> <p>Direct Examination by Mr. Horvath 4</p> <p>Certificate of Reporter112</p> <p>INDEX TO EXHIBITS</p> <p>Plaintiff's Exhibit 57 99</p>
<p>1 2 APPEARANCES (CONTINUED): 3 JASON P. GOSSELIN, ESQUIRE Drinker, Biddle & Reath, LLP 4 One Logan Square 18th and Cherry Streets 5 Philadelphia, PA 19103-6996 Attorney for the Defendants 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>	<p>4 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p> <p>(The videographer read the introduction, and the attorneys introduced themselves.)</p> <p>ELAINE MCCABE,</p> <p>HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:</p> <p>DIRECT EXAMINATION ON BEHALF OF THE PLAINTIFFS</p> <p>BY MR. HORVATH:</p> <p>Q. Good morning, Ms. McCabe.</p> <p>A. Good morning.</p> <p>Q. Just so I can be clear from the start, is it Ms. or Mrs.?</p> <p>A. Mrs.</p> <p>Q. Mrs. Have you ever been deposed before?</p> <p>A. Once, yes.</p> <p>Q. And what was that, what were you -- What case was that?</p> <p>A. It was the Barkaski case associated with the school district.</p> <p>Q. And what was the nature of that case?</p> <p>A. It was a case that involved missing monies from a booster organization.</p> <p>Q. Okay, did that case proceed to trial?</p> <p>A. No.</p> <p>Q. Did that case involve in any way religion in</p>

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<p>1 just want to understand how you view this prayer to 2 operate under the policy. 3 A. Okay. 4 Q. So I am going to show you what has previously 5 been marked PX45. 6 A. Okay. 7 Q. "Heavenly Father, thank you for this great 8 occasion, for the work, the effort, the joys, and 9 everything that led up to this point in time. 10 Thank you for your guidance in this event. We pray 11 for your direction in the lives of each of these 12 school board members. We pray that you direct them to 13 the truth and eventually the truth that comes by 14 knowing Jesus. We also pray that you would be with 15 them at this time. We ask these things in Jesus's 16 name. Amen." 17 Do you believe that this prayer would violate 18 paragraph three of the policy? 19 A. No. 20 Q. Is this prayer asking that the board members 21 be directed into the truth and eventually the truth 22 that comes by knowing Jesus? 23 A. Yes, I believe it is. 24 Q. Do you think that's trying to influence the</p> <p style="text-align: center;">81</p>	<p>1 A. Okay. 2 Q. "Allah, we offer you our school bus drivers, 3 we offer you our superintendent, our administrators 4 and our secretaries. We offer you our teachers and 5 our parents. Finally, we offer you our students. 6 Peace be unto your prophet, Muhammed." 7 A. What do you mean by offer you? 8 Q. How do you understand that? 9 A. I don't. I am not sure that I do understand 10 it, because it's not a prayer that I am used to 11 hearing. If it's just -- If by saying "we offer you," 12 meaning please take care of or please oversee or care 13 for, then I have no objections to it. 14 Q. What if it said, in place of offer, "we lift 15 up to you"? 16 A. That's fine. 17 Q. How do you understand "lift up to you" to 18 mean? 19 A. Um, again I guess I would see it as being 20 here to accept a higher being's guidance. 21 Q. Suppose you are in the audience if such a 22 prayer were offered. 23 A. Uh-huh, that prayer? 24 Q. This prayer.</p> <p style="text-align: center;">83</p>
<p>1 board members? 2 A. No. 3 Q. Why not? 4 A. Well, because if a board member sat at a 5 board meeting and gave this prayer at the beginning, 6 then I am sitting there as a board member either open 7 to his prayer because of what, because I have similar 8 beliefs, or I am sitting there respecting his right to 9 say, or her right to say the prayer, but, if it's not 10 my thing, I may be sitting there just quietly 11 reflecting, but I am not influenced by him giving this 12 prayer. 13 Q. Do you think your impression of this prayer 14 might be biased because you are a Christian? 15 A. Oh, it could be. 16 Q. And you find nothing in this prayer that 17 proselytizes? 18 A. No. 19 Q. Nothing that's trying to influence or force 20 someone to change their religious faith? 21 A. Not me. I mean I can't speak for other 22 people that hear this, but it would not me. 23 Q. Okay. I have another one which I am just 24 going to read.</p> <p style="text-align: center;">82</p>	<p>1 A. Okay. 2 Q. And I am going to assume as a parent or other 3 member of the community you wouldn't see yourself as 4 one of these individuals listed under the prayer. How 5 would you feel as a Christian hearing a board member 6 offering or lifting you up to Allah? 7 A. I would not object to it. And let me just 8 add to that. I don't mean to keep referring to it, 9 but as I have indicated to you, I have been through 10 some personal crisis lately. I have actually had a 11 house that my brother, sister and I owned burn down 12 through a construction accident out on our property. 13 I lost my father December 12 of 2005. I lost 14 my mother January 4 of 2005, 22 days after my father, 15 and I lost a 20 year old nephew February 25, and I 16 frankly have appreciated every prayer that everyone 17 has offered up in my parents' name and my name, and 18 from customers where I work and people that I know 19 that some of them are not Christians and of the same 20 faith, but I have been thankful and grateful for any 21 prayer that they have given me, because it just simply 22 means they care about me, and I would not object to 23 that prayer. 24 And if there was a board member elected that</p> <p style="text-align: center;">84</p>

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1 was of another faith, I would respect their prayer any
 2 night they gave it, the same way I respected the ones
 3 that were given the 11 years I was on the board.
 4 Now, I have chosen personally not to attend
 5 church after my children were grown, but, and I am not
 6 going to tell you that I ever prayed, that I always
 7 prayed every time someone at a board meeting gave a
 8 prayer, but what I can tell you is that I was quiet
 9 and I respected the prayer that they gave.
 10 Probably the only ones that I would have
 11 objected to strongly would be ones that proposed some
 12 of the crazy things going on in our world today where
 13 prayer is associated and faith and religion is
 14 associated with causing people harm and doing crazy,
 15 wild things in the name of the faith.
 16 Q. So, you know, if a prayer -- The only prayer
 17 that you would find objectionable is if someone stood
 18 up and said, "We pray that the heathens in our midst
 19 come to know you and, if they don't, we are going to
 20 behead them."?
 21 A. Uh-huh, yeah, I would have objected to that
 22 one.
 23 Q. Would, short of that threat of physical
 24 violence --

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1 A. No, I am not saying short of that. I am just
 2 saying that, you know, if people prayed to someone
 3 else besides God or Jesus, I would have respected that
 4 right.
 5 Q. Has, to your knowledge, has anyone served on
 6 the board that was not a Christian?
 7 A. I have no idea. It's not an issue that I
 8 have ever been aware of, and I have never questioned
 9 what religious background any of the board members
 10 have.
 11 Q. Do you believe that someone who openly
 12 professes the Muslim faith could be elected to the
 13 school board?
 14 A. Oh, probably not in this area, not right now.
 15 I think that day will come, but I don't think.
 16 Q. In the foreseeable future could that day
 17 come?
 18 A. Probably in my children's lifetime, I think.
 19 I am not sure whether it will in my lifetime. I think
 20 it would be much more likely for someone of the Jewish
 21 faith to be elected to the school board, but I don't
 22 know that religion has ever been an issue in a school
 23 board election as politics or parties or not, either.
 24 Q. Was the board prayer issue -- Was the board's

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1 practice of opening its meetings with prayer an issue
 2 in the 2006 election?
 3 A. 2006? Last May, I think there were three or
 4 four elections, if I am not mistaken. I am sure it
 5 was an issue for some people. There were other
 6 issues, I think, just as important.
 7 Q. You stated that if a board member gave a
 8 prayer that you may not agree with personally, that
 9 you would remain quiet and respectful while they give
 10 the prayer. Am I correct in that?
 11 A. What do you mean not agree with?
 12 Q. If someone gave a prayer of a different
 13 religious faith than yours, --
 14 A. Uh-huh.
 15 Q. -- you would allow them to make the prayer
 16 and remain quiet and respectful of them while
 17 they were giving the prayer?
 18 A. Yes.
 19 Q. Do you think everyone in attendance should do
 20 the same?
 21 A. Well, we can't really control what the
 22 audience does. I think the board members should, and
 23 I think the board members would, but even with the
 24 prayers that are given, frankly most of the time there

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1 are people in the audience talking while it's going
 2 on, and we don't -- We don't and can't really control
 3 that.
 4 Q. Can the board president call the meeting to
 5 order? Can he --
 6 A. Yes.
 7 Q. -- insist that the meeting be conducted
 8 orderly?
 9 A. Yes.
 10 Q. If there was a disruption in the audience,
 11 could the board president clear the room?
 12 A. Well, you know, I suppose by procedures of
 13 how to operate a meeting, he could. I have never
 14 known it to happen, and I don't know how he would do
 15 it, really, she.
 16 Q. But you could see the board maintaining some
 17 degree of order if there was a disruption?
 18 A. I think the board president tries to, by
 19 beating the gavel or whatever, tries to maintain
 20 order, yes, as much as they can.
 21 Q. To go back to your statement about,
 22 instructing me that you would have to see the prayer
 23 being really strong before you would find it
 24 objectionable, so let me just read you one last one?

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EXHIBIT 14

Dobrich, et al.
Donna Mitchell

v.
Case No. 15-120

Indian River School District, et al.
October 16, 2006

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1 IN THE UNITED STATES DISTRICT COURT
2 IN AND FOR THE DISTRICT OF DELAWARE
3 MONA DOBRICH and MARCO : Case No. 15-120 (JJF)
4 DOBRICH, Individually and :
5 as parents and next friend :
6 of ALEXANDER DOBRICH, :
7 SAMANTHA DOBRICH, JANE DOE :
8 and JOHN DOE, Individually :
9 and as parents and next :
10 friend of JORDAN DOE and :
11 JAMIE DOE, :
12 :
13 Plaintiffs, :
14 :
15 v. :
16 :
17 INDIAN RIVER SCHOOL :
18 DISTRICT, et al., :
19 :
20 Defendants. :
21 :
22
23 Video Deposition of DONNA MITCHELL, taken
24 pursuant to notice, on Monday, October 16, 2006
 at 9:15 a.m. at 31 Hosier Street, Selbyville,
 Delaware, reported by Lorena J. Hartnett, a Registered
 Professional Reporter and Notary Public.

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<p>1 that I had been abusive in any way in the deposition?</p> <p>2 A. No, they did not.</p> <p>3 Q. Or harassing?</p> <p>4 A. No.</p> <p>5 Q. Or belittling in tone?</p> <p>6 A. No.</p> <p>7 Q. What did you do to prepare for the</p> <p>8 deposition? Did you meet with your lawyers?</p> <p>9 A. Yes.</p> <p>10 Q. And when did that take place?</p> <p>11 A. I don't remember the exact date.</p> <p>12 Q. The exact date is not -- Within the last</p> <p>13 couple of weeks?</p> <p>14 A. Yes.</p> <p>15 Q. Alright, and is that a meeting that took</p> <p>16 place in this room?</p> <p>17 A. Yes.</p> <p>18 Q. And who was here?</p> <p>19 A. Myself, Nina Lou, Janet, the secretary, Janet</p> <p>20 Hearn, and Jason, and two of his associates.</p> <p>21 Q. Over the course of that meeting, did you</p> <p>22 review any documents?</p> <p>23 A. I had no documents before me.</p> <p>24 Q. Did any of the lawyers read to you from any</p> <p>9</p>	<p>1 A. Nobody asked me in particular. My friends</p> <p>2 encouraged me, because the person who held the seat</p> <p>3 was moving out of the district.</p> <p>4 Q. Who was that?</p> <p>5 A. Elaine McCabe.</p> <p>6 Q. And whom did you notify that you intended to</p> <p>7 run for the school board? What's the official process</p> <p>8 for putting your name on the ballot?</p> <p>9 A. You go to Georgetown and you put your name in</p> <p>10 to get on the ballot.</p> <p>11 Q. What district do you represent?</p> <p>12 A. District 5.</p> <p>13 Q. During the campaign or during let's just call</p> <p>14 it the period of time running up to the election, did</p> <p>15 you make any special effort to connect with voters,</p> <p>16 explain your positions, find out their concerns and so</p> <p>17 forth?</p> <p>18 A. Actually, I didn't do anything formal. I,</p> <p>19 you know, worked with the people; I go to church with</p> <p>20 the people; I have lived in this community my entire</p> <p>21 life; so, of course, I have conversations, but nothing</p> <p>22 formal.</p> <p>23 Q. Was that because you felt that people</p> <p>24 understood where you stood on the issues?</p> <p>11</p>
<p>1 documents?</p> <p>2 A. I don't remember documents being read. It</p> <p>3 was more preparing us for kind of what to expect,</p> <p>4 because we had never been to a deposition.</p> <p>5 Q. Did anything occur at that meeting that</p> <p>6 refreshed your recollection about events relating to</p> <p>7 the school board prayer issue, particularly the events</p> <p>8 of the summer and fall of 2004?</p> <p>9 A. No, I don't believe we even discussed that.</p> <p>10 Q. Where were you born, Ms. Mitchell?</p> <p>11 A. Lewes, Delaware.</p> <p>12 Q. And did you attend public schools in the</p> <p>13 Lewes area?</p> <p>14 A. No, I did not. I attended this school that</p> <p>15 we are sitting in for 12 years.</p> <p>16 Q. All right, so you moved to this area early on</p> <p>17 in your life?</p> <p>18 A. I have always lived in this area. It's just</p> <p>19 that I was born at the hospital in Lewes.</p> <p>20 Q. When you ran for the school board, did you</p> <p>21 prepare any campaign materials, posters, handouts,</p> <p>22 anything like that?</p> <p>23 A. Nothing.</p> <p>24 Q. Who asked you to run for the school board?</p> <p>10</p>	<p>1 A. Yes.</p> <p>2 Q. Before you were elected to the board, did you</p> <p>3 have a position on the appropriateness of opening</p> <p>4 school board meetings with a prayer?</p> <p>5 A. Yes.</p> <p>6 Q. What was that position?</p> <p>7 A. I believe that it's okay to do so.</p> <p>8 Q. And what was the basis for that belief? And</p> <p>9 this is before you joined the board; this is at the</p> <p>10 time that you were running for the school board in</p> <p>11 2005.</p> <p>12 A. It has been tradition to open school board</p> <p>13 meetings with prayer. My grandfather was on the</p> <p>14 school board when I was a young child in school, and</p> <p>15 they opened the meetings with prayer at that time, and</p> <p>16 that's over 50 years ago.</p> <p>17 It's always been done that way, and I believe</p> <p>18 it solemnizes the proceedings and prepares people to</p> <p>19 conduct the business of the district.</p> <p>20 Q. Anything else? Any other reason for your</p> <p>21 belief?</p> <p>22 A. No, I think that says it.</p> <p>23 Q. Okay. You would agree with me that not</p> <p>24 everything that has been a tradition is always</p> <p>12</p>

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<p>1 correct? We can think of bad examples?</p> <p>2 A. Yes.</p> <p>3 Q. Or, to say it a different way, some</p> <p>4 traditions are good and some traditions are bad? Fair</p> <p>5 enough?</p> <p>6 A. Fair enough.</p> <p>7 Q. This one, though, seems to you to be a good</p> <p>8 tradition?</p> <p>9 A. Yes.</p> <p>10 Q. Why does it seem to you to be a good</p> <p>11 tradition?</p> <p>12 A. I see no harm in it, and I only see good in</p> <p>13 it, because I think it prepares people to settle down</p> <p>14 to be serious about what is going to take place.</p> <p>15 And, as a Christian personally, it makes me</p> <p>16 feel that I am more prepared because I am asking for</p> <p>17 wisdom in making decisions that are important that are</p> <p>18 going to affect the school district. That's my</p> <p>19 personal opinion.</p> <p>20 Q. And some of what we will talk about today is</p> <p>21 your personal opinion and then the sort of broader</p> <p>22 impact of the open prayer.</p> <p>23 But in your earlier answer you said it</p> <p>24 prepared -- I may not have the words quite right, but</p> <p style="text-align: center;">13</p>	<p>1 the opinion that you have just expressed today, that</p> <p>2 the impact of the prayer is limited to the ten board</p> <p>3 members?</p> <p>4 A. I can't really say. It's just the way I feel</p> <p>5 about it.</p> <p>6 Q. You testified several times using the word</p> <p>7 solemnizing. You know that that word is in the</p> <p>8 policy, itself?</p> <p>9 A. Yes.</p> <p>10 Q. Would you tell me, and maybe you have already</p> <p>11 answered this question in part, maybe entirely, but</p> <p>12 would you tell me what you think it means when the</p> <p>13 policy says "in order to solemnify its proceedings"?</p> <p>14 A. To me, it means to get serious, solemn, to</p> <p>15 bring us together as a body, as a legislative body to</p> <p>16 conduct business.</p> <p>17 Q. Do you think it's necessary for the, in order</p> <p>18 for the board members to get serious and to bring the</p> <p>19 board members together as a legislative body, for the</p> <p>20 board to open its meetings with a prayer?</p> <p>21 A. Do I think it's necessary?</p> <p>22 Q. Correct.</p> <p>23 A. I think it's preferable.</p> <p>24 Q. Preferable but not necessary?</p> <p style="text-align: center;">15</p>
<p>1 it prepares people to settle down for the business at</p> <p>2 hand?</p> <p>3 A. It solemnizes it. It makes us get more</p> <p>4 serious and settles us.</p> <p>5 Q. Okay. And in each of those sentences, the</p> <p>6 object of the settling or the solemnization, you use</p> <p>7 the pronoun "us," and what I would like to know is who</p> <p>8 is it, precisely, that the prayer is directed to?</p> <p>9 A. The school board.</p> <p>10 Q. All right. Is it intended that it has any</p> <p>11 impact whatsoever on the members of the public who are</p> <p>12 in attendance, or is it limited to the school board</p> <p>13 members who have to make decisions at that meeting?</p> <p>14 A. In my opinion, it's limited to the school</p> <p>15 board members.</p> <p>16 Q. And was that your view when you were running</p> <p>17 for the school board in 2005?</p> <p>18 A. I never thought about it at that time. It</p> <p>19 was not an issue.</p> <p>20 Q. And, by the way, that's a perfectly good</p> <p>21 answer. Don't feel like you have to have an answer to</p> <p>22 every question.</p> <p>23 A. Right.</p> <p>24 Q. So what caused you to think about it and form</p> <p style="text-align: center;">14</p>	<p>1 A. To me, it's extremely important.</p> <p>2 Q. I can ask -- I can keep asking the question,</p> <p>3 but -- I could ask the question a different way, but I</p> <p>4 am going to persist until I get an answer from you or</p> <p>5 an answer that you can't answer.</p> <p>6 Do you think it's necessary for the Board of</p> <p>7 Education of the Indian River School District to open</p> <p>8 its meetings with a prayer in order for those members</p> <p>9 to get serious and to bring them together as a</p> <p>10 legislative body?</p> <p>11 A. In my personal opinion, we would not be as</p> <p>12 effective if we did not do so.</p> <p>13 Q. And why is that?</p> <p>14 A. Because I believe asking the Lord's direction</p> <p>15 and guidance is extremely important when you come to</p> <p>16 matters that are discussed of such importance.</p> <p>17 Q. Let me pursue that a moment. So, in your</p> <p>18 personal perspective -- Let me strike that.</p> <p>19 It's your goal, I assume, always to make the</p> <p>20 best possible decisions you can as a school board</p> <p>21 member?</p> <p>22 A. Correct.</p> <p>23 Q. And it's your belief that the ten members of</p> <p>24 the school board will make better decisions if they</p> <p style="text-align: center;">16</p>

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<p>1 a prayer in your head seeking divine guidance, just as</p> <p>2 you do at the special board meetings; is that right?</p> <p>3 A. I am listening to the prayer that's being</p> <p>4 said and I am also on my own, yes.</p> <p>5 Q. Fair enough. Paragraph three provides, "Such</p> <p>6 opportunity." That's the opportunity to offer a</p> <p>7 prayer, a moment of silence? Yes? That's what it</p> <p>8 refers to?</p> <p>9 A. Okay, yes.</p> <p>10 Q. "Such opportunity shall not be used or</p> <p>11 exploited to proselytize, advance or convert anyone or</p> <p>12 to derogate or otherwise disparage any particular</p> <p>13 faith or belief."</p> <p>14 Is it your understanding that that limits,</p> <p>15 imposes some limits on what people can say when they</p> <p>16 offer a prayer or a moment of silence?</p> <p>17 A. I wouldn't think it would affect a moment of</p> <p>18 silence.</p> <p>19 Q. That's a good point.</p> <p>20 A. But it would have an affect on perhaps what</p> <p>21 would be said verbally.</p> <p>22 Q. I have some -- I have some examples, and I</p> <p>23 want to, as a board member, I want to try to ask you</p> <p>24 whether you think these examples would violate</p> <p>105</p>	<p>1 A. Right.</p> <p>2 Q. So that prayer that I have just offered you,</p> <p>3 whether it's appropriate or inappropriate, is it your</p> <p>4 view that it violates paragraph three of the board</p> <p>5 policy?</p> <p>6 A. Would you say it again?</p> <p>7 Q. Sure. And I am not going to promise I am</p> <p>8 going to get exactly the same words. I should have it</p> <p>9 written down somewhere. "Oh, Lord, we pray that you</p> <p>10 will convert the heathen in our audience so that they</p> <p>11 come to know the goodness and wisdom of your heart."</p> <p>12 Would that violate or be permitted under paragraph --</p> <p>13 A. I would not say that. I would say it's</p> <p>14 really pushing the limit. It's -- I would not say</p> <p>15 that.</p> <p>16 Q. When you say "pushing the limit," you mean</p> <p>17 pushing the limit of things that are permitted under</p> <p>18 paragraph three; correct?</p> <p>19 A. Yes.</p> <p>20 Q. Okay, and what is it in that prayer that you</p> <p>21 think would violate some provision of paragraph three?</p> <p>22 A. We are not out to convert anyone.</p> <p>23 Q. Are you sure that that prayer would violate</p> <p>24 paragraph three, at least as you understand?</p> <p>107</p>
<p>1 paragraph three or would be permitted under paragraph</p> <p>2 three.</p> <p>3 And the first example I want to give you is</p> <p>4 suppose that a prayer was offered in which the person</p> <p>5 offering the prayer said, "Lord, we pray that you</p> <p>6 convert the heathen in our audience that they will</p> <p>7 come to know the goodness and wisdom of your heart."</p> <p>8 Would you view that as a prayer that was</p> <p>9 permissible under paragraph three or violated</p> <p>10 paragraph three?</p> <p>11 A. I would think that would be inappropriate for</p> <p>12 a school board to say that, because we are praying for</p> <p>13 wisdom for our group, not for the audience. We are</p> <p>14 not trying to convert anyone.</p> <p>15 Q. That's helpful, and that's -- but it's -- I</p> <p>16 am looking for an answer to my specific question. You</p> <p>17 have before you a policy of the board. The board are</p> <p>18 the people charged with enforcing the board's</p> <p>19 policies; correct?</p> <p>20 A. Right.</p> <p>21 Q. So you, as a board member, are charged with</p> <p>22 ensuring that nobody offers a prayer that is used or</p> <p>23 exploited to proselytize, advance or convert anyone</p> <p>24 and so forth; correct?</p> <p>106</p>	<p>1 A. I can't speak for anyone else. It wouldn't</p> <p>2 be right for me, because our purpose is not to convert</p> <p>3 anyone. It's to seek wisdom in making business</p> <p>4 decisions.</p> <p>5 Q. Understood, and I think you and I are in the</p> <p>6 same wavelength in that. I am now trying to get at</p> <p>7 something different. If anybody -- I know that you</p> <p>8 would not offer that prayer for the reasons you have</p> <p>9 just said, but if one of your colleagues offered that</p> <p>10 prayer and, just to make life a little easier for you,</p> <p>11 passed out the text ahead of time, would you form the</p> <p>12 conclusion that that was a prayer that would violate</p> <p>13 paragraph three of the policy?</p> <p>14 A. I would go to that person and say I don't</p> <p>15 think this is appropriate.</p> <p>16 Q. Because it violates paragraph three?</p> <p>17 A. More than paragraph three, it just isn't</p> <p>18 appropriate.</p> <p>19 MR. ALLINGHAM: Okay. I am going to</p> <p>20 show you what we have previously marked as</p> <p>21 Plaintiff's Exhibit 35. You don't have the</p> <p>22 stack in front of you. Do you want copies?</p> <p>23 MR. GOSSELIN: I never did have this</p> <p>24 one, because it was that little sheet that</p> <p>108</p>

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<p>1 individual board members to offer any prayer except 2 those that are used or exploited to proselytize, 3 advance or convert anyone or to derogate or otherwise 4 disparage any particular faith or belief; correct? 5 A. Yes. 6 Q. Okay. Am I right, then, at least in 7 understanding that you did not view the text of any 8 prayer that's been given since you joined the board as 9 having used or exploited the opportunity to pray, to 10 proselytize, advance or convert anyone, or to derogate 11 or otherwise disparage any particular faith or belief? 12 A. There haven't been any that have offended me 13 or struck me that way. 14 Q. On the other hand, that prayer that I gave 15 you a minute ago about converting the heathen, that 16 one would have struck you as being the use or 17 exploitation of the opportunity to proselytize, 18 advance or convert anyone and so forth; correct? 19 A. It certainly would push the limit. I just -- 20 Q. You seem as though you are just not sure? 21 A. Well, no, I just -- 22 Q. Let me give you another one. Suppose that 23 the prayer were -- 24 MR. GOSSELIN: If you did it with the</p> <p>113</p>	<p>1 wouldn't be my personal prayer. 2 Q. And that would be true even if the text of 3 that prayer, in your mind, would sound like an effort 4 to convert someone? 5 A. If I felt like something sounded like an 6 effort to convert someone, I would speak up. 7 Q. Okay. And, similarly, the other words in 8 paragraph three, if it was an effort to proselytize, 9 -- 10 A. Yes. 11 Q. -- you would speak up? 12 A. That's not our place to do so. 13 Q. And so you would speak up if a board member 14 offered prayer that you viewed as proselytizing? 15 A. Yes, I would. 16 Q. And describe for me -- I tried to give you an 17 example of a prayer that seemed clearly to try to 18 convert someone, because it said, "Help us, Lord, to 19 convert these people." 20 A. Right. 21 Q. But give me an example or tell me how you 22 would know that a prayer was seeking to proselytize? 23 A. I guess I would have to hear it. I don't 24 want to -- I can't think of an example right off the</p> <p>115</p>
<p>1 inflection that might come with it, that 2 would tip her over the edge. 3 BY MR. ALLINGHAM: 4 Q. Suppose that the prayer were, "We pray, 5 Allah, that you convert the infidels in the public 6 audience and on this board." 7 A. That would certainly get my attention. 8 Q. Wouldn't you think that was a prayer that was 9 being used to try to convert someone? 10 A. Yes. 11 Q. Okay. 12 A. Or not, maybe not just convert, but to 13 slander or, or, I don't know what's the correct word 14 to use. It would, for a Christian school district 15 overall, per say a majority, it would certainly catch 16 the attention of everyone, I am sure. 17 Q. But aren't these prayers supposed to be all 18 in accord with the freedom of conscience of the 19 individual adult board members? 20 A. Yes. 21 Q. So -- 22 A. I wouldn't -- I mean I would bring my prayer. 23 You know, I would -- I would -- I would give them the 24 right to say what they felt led to say, but it</p> <p>114</p>	<p>1 top of my head, but I just don't think it's our place 2 to convert anyone to any religion. 3 Q. And proselytize is clearly different. It's a 4 different clause here. You don't think it's your 5 place to proselytize for any particular religion? 6 A. No. 7 Q. Alright, now coming back to PX35, which is 8 the text of the prayer I gave you, -- 9 A. Right. 10 Q. -- is it your view that this prayer 11 proselytizes? 12 A. It looks like the person will be reciting 13 scripture, and I can't get into their heads to know 14 why they would choose to cite scripture instead of 15 offering a prayer for wisdom. I don't know what their 16 intent would be. I just feel that it would be 17 inappropriate. I wouldn't do it, for me. 18 Q. This is not a prayer, though, that seeks to 19 convert someone, is it? 20 A. It doesn't sound like a prayer. It sounds 21 like scripture. It sounds like Romans. 22 Q. Part of it is Romans. 23 A. Okay, the end of it. 24 Q. Is it your view that for someone to quote</p> <p>116</p>

EXHIBIT 15

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<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE DISTRICT OF DELAWARE 3 4 MONA DOBRICH and MARCO) 5 DOBRICH, individually and) 6 as parents and next friend) 7 of ALEXANDER DOBRICH,) 8 SAMANTHA DOBRICH, JANE DOE) 9 and JOHN DOE, individually) 10 and as parents and next) 11 friend of JORDAN DOE and) 12 JAMIE DOE,) 13 Plaintiffs,) 14) Civil Action 15 v.) No. 05-120 (JJF) 16) 17 INDIAN RIVER SCHOOL,) 18 DISTRICT, et al.,) 19) 20 Defendants.) 21 22 Videotaped Deposition of HARVEY L. WALLS, 23 taken pursuant to notice at 31 Hosler Street, 24 Selbyville, Delaware, beginning at 1:30 p.m., on Wednesday, October 25, 2006, before Terry Barbano Burke, RMR-CRR and Notary Public. APPEARANCES: THOMAS ALLINGHAM, ESQUIRE BRIAN LENHARD, ESQUIRE One Rodney Square Wilmington, Delaware 19801 For the Plaintiff WILCOX & FETZER 1330 King Street - Wilmington, Delaware 19801 (302) 655-0477 www.wilfet.com</p>	<p>1 MR. SHAU: I'm Jarrod Shau and I 2 represent the defendants in this action. 3 HARVEY L. WALLS, 4 the deponent herein, having first been 5 duly sworn on oath, was examined and 6 testified as follows: 7 BY MR. ALLINGHAM: 8 Q. Have you ever been deposed before, Mr. Walls? 9 A. Yes. 10 Q. When? 11 A. I'm not sure of the date. Somewhere around 12 the late 90's for a district staff employee that had 13 sued the district. 14 Q. I am going to ask you some questions. Please 15 tell me if you don't understand the question or if you 16 think it's ambiguous. 17 If you answer the question, I will 18 assume, and I think the judge and the jury will assume, 19 that you understood it. So let me know and I'll try to 20 fix the question if you have a problem. 21 You have to answer out loud yes or no, 22 not uh-huh or uh-uh. 23 And lastly, I freely confess that I tend 24 to interrupt people. I'll try not to do that. You</p>
<p>1 APPEARANCES (cont'd): 2 JARROD SHAU, ESQUIRE 3 Drinker, Biddle & Reath, LLP 4 One Logan Square 5 18th and Cherry Streets 6 Philadelphia, Pennsylvania 19103-6996 7 For the Defendants 8 9 ALSO PRESENT: 10 11 TIMOTHY KEARNS 12 MARK BUCKMASTER, Video Specialist 13 14 VIDEO SPECIALIST: This is the videotape 15 deposition of Harvey L. Walls, taken by the plaintiff 16 in the matter of Dobrich, et al., versus Indian River 17 School District et al., Civil Action No. 05-120, held 18 at 31 Hosler Street in Selbyville, Delaware, on 19 October 25th, 2006, at approximately 1:32 p.m. 20 The court reporter is Terry Burke from 21 the firm of Wilcox & Fetzer. My name is Mark 22 Buckmaster, a video specialist with Discovery Video 23 Services, Incorporated, in association with Wilcox & 24 Fetzer. Counsel will now introduce themselves and the reporter will swear in the witness. MR. ALLINGHAM: I'm Tom Allingham. I represent the plaintiffs, and along with me are Tim Kearns and Brian Lenhard.</p>	<p>1 should try not to interrupt me or assume that you know 2 that what the answer to my question is, because the 3 court reporter can't take down both of us at once; 4 okay? 5 Do you know who the Doe family are? 6 A. No. 7 Q. Has anyone ever told you that they know who 8 the Doe family are? 9 A. Not to my knowledge. 10 Q. Have you spoken with anyone who has already 11 given their deposition in this matter? 12 A. I have spoken to Dr. Hattier and Mrs. Bunting. 13 Q. When did you speak to Dr. Hattier? 14 A. Oh, probably a week or two ago. 15 Q. And what was the substance of your 16 conversation, what did he say? 17 A. Just basically that it went quite a long time. 18 Q. Anything else? 19 A. We talked about, a little bit about the type 20 of stuff you might be covering or asking or something, 21 but exactly what I couldn't tell you. 22 Q. Do you recall that Dr. Hattier told you any 23 questions that he was asked? 24 A. No. He told me that you and him got into some</p>

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<p>1 supreme being, being Jehovah or Jesus or Buddha or</p> <p>2 Allah and whatever. And sectarian I take to mean as</p> <p>3 you can't, it would be basically a generality, only</p> <p>4 mentioning God and nothing else.</p> <p>5 Q. All right. So taking that as the definition</p> <p>6 of sectarian and non-sectarian, the prayers that were</p> <p>7 offered over the 14 years of your service on the board,</p> <p>8 were they sectarian or non-sectarian?</p> <p>9 A. I would say 90 percent were probably</p> <p>10 non-sectarian.</p> <p>11 Q. Non-sectarian?</p> <p>12 A. Yes.</p> <p>13 Q. So would I be correct in understanding that</p> <p>14 the board's practice over the 14 years of your tenure</p> <p>15 was to offer non-sectarian prayers to open its</p> <p>16 meetings?</p> <p>17 A. I don't know that that was a practice. I</p> <p>18 don't know that anyone in particular was told give</p> <p>19 non-sectarian or sectarian prayer, to my knowledge.</p> <p>20 Whoever gave the prayer gave the prayer however they</p> <p>21 wanted to give it.</p> <p>22 Q. All right.</p> <p>23 Who drafted BDA.1?</p> <p>24 A. This was drafted by Tom Neuberger.</p> <p style="text-align: center;">13</p>	<p>1 the policy?</p> <p>2 A. It all depends on the type of policy that it</p> <p>3 was. I mean sometimes the board would think that a</p> <p>4 policy would be needed in a certain area and they would</p> <p>5 make a recommendation to the policy committee and th</p> <p>6 would then consider it, come back with a draft.</p> <p>7 Other times it could be that the state,</p> <p>8 department of education or federal education departme</p> <p>9 would come down and say, you need to have a policy in</p> <p>10 this area. Then it would go through a policy committee</p> <p>11 and to the board.</p> <p>12 Many times also it would go to the</p> <p>13 district's lawyer before it would come to the board.</p> <p>14 Q. Who was the district's lawyer in 2004?</p> <p>15 A. James Griffin.</p> <p>16 Q. Did this policy go to the district's lawyer?</p> <p>17 A. I believe it did, but I can't say for sure.</p> <p>18 Q. Well, in 2004, you were the president of the</p> <p>19 board; correct?</p> <p>20 A. I think so.</p> <p>21 Q. And you were the head of the policy committee?</p> <p>22 A. Yes.</p> <p>23 Q. Who would know better than you whether this</p> <p>24 policy went to the district's lawyer before it went to</p> <p style="text-align: center;">15</p>
<p>1 Q. How long did the policy committee consider the</p> <p>2 board prayer policy before it presented the proposed</p> <p>3 policy to the full board for first reading?</p> <p>4 A. Just long enough to get it into draft form.</p> <p>5 In other words, assigning the letters to it.</p> <p>6 The actual wording in it was not left up</p> <p>7 to the policy committee. It was brought to the board</p> <p>8 by myself.</p> <p>9 Q. Was the actual language of the board prayer</p> <p>10 policy considered by the policy committee at any time?</p> <p>11 A. No.</p> <p>12 Q. How long did you serve on the policy</p> <p>13 committee?</p> <p>14 A. Out of 14 years, probably 11 or 12.</p> <p>15 Q. Okay. Was there an ordinary process for the</p> <p>16 drafting, consideration and adoption of board policies?</p> <p>17 A. The normal process would be it would come</p> <p>18 through the policy committee and then from the policy</p> <p>19 committee to me or the policy committee chairman woul</p> <p>20 bring it to the board.</p> <p>21 Q. What was the normal process for drafting a</p> <p>22 policy?</p> <p>23 A. Various.</p> <p>24 Q. Tell me the ways that you went about drafting</p> <p style="text-align: center;">14</p>	<p>1 the full board?</p> <p>2 A. Probably a district administrator off the</p> <p>3 policy committee that sent it to Mr. Griffin.</p> <p>4 Q. Who would that be?</p> <p>5 A. I don't know. It could be Mr. Savage or</p> <p>6 Mrs. Bunting.</p> <p>7 Q. That would be Susan Bunting?</p> <p>8 A. Yes.</p> <p>9 Q. How did it come about that the policy</p> <p>10 committee undertook to consider a school board prayer</p> <p>11 policy?</p> <p>12 A. Because of the original complaint from</p> <p>13 Mrs. Dobrich.</p> <p>14 Q. And would you describe how that original</p> <p>15 complaint was transmitted to, either to the board or to</p> <p>16 the policy committee?</p> <p>17 A. The original complaint I think had to do with</p> <p>18 graduation services and baccalaureate services.</p> <p>19 During, there was also a complaint at a public meeting</p> <p>20 I think in August or so of that year about prayer at</p> <p>21 board meetings. I believe that complaint came from the</p> <p>22 ACLU representative who was there.</p> <p>23 At that point, that's where the policy</p> <p>24 committee got looking at three different areas of the</p> <p style="text-align: center;">16</p>

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<p>1 president Reginald Helms." 2 Does that refresh your recollection that 3 it was Mr. Helms who first contacted Mr. Neuberger? 4 A. It could have been. 5 Q. You still don't recollect? 6 A. I'm not sure. 7 Q. Did the board ever retain Mr. Neuberger or The 8 Rutherford Institute to represent it in connection with 9 this lawsuit and the issues presented? 10 A. Technically, no. 11 Q. And did Mr. Helms ever retain Mr. Neuberger to 12 represent him individually in connection with this 13 lawsuit? 14 A. I believe he did. 15 Q. And how do you know that Mr. Helms retained 16 Mr. Neuberger? 17 A. I believe he announced that to the board. 18 Q. Do you know whether Mr. Helms signed a 19 retention agreement with Mr. Neuberger? 20 A. I would not know. 21 Q. Is it your practice as board president when 22 you retain a lawyer or a law firm on the district's 23 behalf to sign a retention agreement with that lawyer? 24 A. The actual board president, no. It may very</p> <p style="text-align: center;">25</p>	<p>1 paragraphs continuing over to the last page. 2 A. Uh-huh. 3 Right. 4 Q. Are they substantively identical to the board 5 policy as adopted? 6 A. They are. 7 Q. Is this the document in which Mr. Neuberger 8 transmitted to you, apparently through Mr. Helms, the 9 text of the policy that you prepared to the board on 10 September 29th? 11 A. Yes. 12 Q. And is this the first time that this text was 13 transmitted to you from Mr. Neuberger? 14 A. I don't know. 15 Q. When you received this document, PX-34, did 16 you review it? 17 A. Yes. 18 Q. Did you see anything in it that you thought 19 was inaccurate? 20 A. I don't know about inaccuracies, but I believe 21 I recollect, after seeing it, my recommendation to the 22 board was the numbered items as policies on the last 23 two pages as the actual policy. 24 Q. Yes, sir. You recommended to the full</p> <p style="text-align: center;">27</p>
<p>1 well have been the superintendent. 2 Q. It is the practice of the district when it 3 retains lawyers to execute a retention agreement; is 4 that right? 5 A. I believe so. 6 Q. Okay. 7 Let me show you what's been marked as 8 PX-34. 9 I gather that you have seen this 10 document? 11 A. I am sure I have. 12 Q. The first page reflects it was faxed from 13 Mr. Helms to you on September 2nd, 2004; is that 14 correct? 15 A. That's what it says on the front. 16 Q. You have no reason to doubt that, do you? 17 A. No. 18 Q. Looking at the content of the fax, do you 19 recall having seen this document? 20 A. I am sure I have seen it. I just don't 21 necessarily remember it. 22 Q. Look at the next to the last page of the 23 package which we have marked. Down at the bottom o 24 the page, you will see that there are five numbered</p> <p style="text-align: center;">26</p>	<p>1 board -- 2 A. I did not recommend that all these other pages 3 be part of the policy. 4 Q. In making that recommendation and ultimately 5 voting to adopt policy BDA.1 on school board prayer, 6 did you take into consideration as one factor in your 7 decision the material provided by Mr. Neuberger in 8 PX-34? 9 A. Well, obviously I considered the last two 10 pages. 11 Q. Yes, that seems clear. Did you also take into 12 account the materials provided in the first four pages 13 of the fax? 14 A. I certainly read them. 15 Q. And did you take them into account? 16 A. Yes. 17 Q. The information provided was one of the 18 factors that you considered in voting to adopt the 19 policy; is that right? 20 A. Yes. 21 Q. On Page 2 of Mr. Neuberger's memo, about 22 two-thirds of the way down the page in the last whereas 23 clause on that page, PX-34 reflects, "The school board 24 has retained the legal advice" -- sorry. I'll start</p> <p style="text-align: center;">28</p>

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<p>1 actual substance of the board policy, no, it was not 2 discussed at that meeting. 3 Q. Are most board policies discussed at a policy 4 committee meeting? 5 A. Yes. 6 Q. Why was this one not discussed? 7 A. Because I did not want to subject the 8 administrators on the policy committee to any portion 9 of that policy because I figured -- I thought this was 10 a policy completely affecting the board. 11 Q. And only the board? 12 A. Yes. 13 Q. Okay. And that's reflected in the first 14 sentence of Paragraph 4, "Such prayer is voluntary and 15 it is among only the adult members of the board"? 16 A. Yes. 17 Q. I take it that it was your view that to 18 accomplish its purpose, that is, to solemnify its 19 proceedings, the board could accomplish that purpose t 20 having a member open its meeting with a prayer; 21 correct? 22 A. Yes. 23 Q. That would be an effective way to solemnify 24 the proceedings?</p> <p style="text-align: center;">41</p>	<p>1 half, no. 2 Q. Did you have a piece of paper that you 3 brought, the piece of paper on which the disclaimer was 4 written, that you took with you to each meeting -- 5 A. Yes. 6 Q. -- so that you'd know what to read? 7 A. Yes. 8 Q. Do you still have that piece of paper? 9 A. No. 10 Q. Did you give it to Mr. Bireley? 11 A. I more than likely did. 12 Q. Okay. 13 Mr. Bireley testified that that 14 disclaimer consists of Paragraphs 1 and 4 of the board 15 policy. Is that your recollection? 16 A. I never really put the two together, but now 17 that I read them, I would say that's probably it. 18 Q. Am I right in understanding, Mr. Walls, that 19 it is the intention of the board prayer policy that no 20 one other than the adult members of the board would be 21 the object of the prayer? 22 A. That is the object. 23 Q. Am I then correct that in order to solemnify 24 its proceedings, the prayer among the adult members o</p> <p style="text-align: center;">43</p>
<p>1 A. Yes. 2 Q. The board of education could also solemnify 3 its proceedings by having a member request a moment 4 silence; correct? 5 A. That's correct. 6 Q. And that would be an effective way to 7 solemnify the proceedings? 8 A. Yes. 9 Q. At the October 19th, 2004 board meeting when 10 the policy was adopted, you were president of the 11 board; correct? 12 A. I'm sure I was. 13 Q. And did you invite someone to open the meeting 14 with a prayer or moment of silence? 15 A. I'm sure I did. 16 Q. Do you know whether you read a disclaimer of 17 some kind before the member offered the moment of 18 silence or the prayer? 19 A. I probably did. 20 Q. Did you have it written down? 21 A. Yes. 22 Q. Do you know what the text of that disclaimer 23 consisted of? 24 A. Not after having not read it for a year and a</p> <p style="text-align: center;">42</p>	<p>1 the board could take place outside of the regular 2 meeting immediately before the meeting? 3 A. It could, but in my mind, that wouldn't 4 solemnify the meeting. 5 Q. Could you explain to me why not? 6 A. The actual board meeting is the board's 7 meeting that happens to be held in public. I would say 8 that there are Sunshine Laws that would prohibit the 9 board from getting together before the meeting and ther 10 going in and holding the meeting. 11 Q. Have you completed your answer? 12 A. To my knowledge, the board can't meet unless 13 it advertises the meeting and opens it to the public. 14 So if the board were to meet outside in the hallway 15 with no one around, that would be an illegal meeting. 16 Q. Have you completed your answer? 17 A. Yes. 18 Q. Did you ever request advice from anyone on 19 that topic? 20 A. No, not that I can remember. 21 Q. Do you recall any discussion of that opinion, 22 that is, that to meet immediately, immediately prior to 23 walking on stage and taking your seats at the board 24 meeting, to meet solely for the purpose of having a</p> <p style="text-align: center;">44</p>

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<p>1 of the board?</p> <p>2 A. No.</p> <p>3 Q. Okay.</p> <p>4 A. Not a regular scheduled.</p> <p>5 Q. Yes, and we're talking about regular board</p> <p>6 meetings --</p> <p>7 A. Yes.</p> <p>8 Q. -- because that's what the board prayer policy</p> <p>9 applies to; correct?</p> <p>10 A. Right.</p> <p>11 Q. All right. One difference between standing in</p> <p>12 the wings and having a prayer among the adult board</p> <p>13 members and walking on stage and having a prayer on</p> <p>14 you sit down at the table is that there's an audience</p> <p>15 for the on stage prayer; correct?</p> <p>16 A. That's one difference.</p> <p>17 Q. Okay. With respect to the solemnification of</p> <p>18 the proceedings, can you think of any other difference</p> <p>19 between the off stage prayer and the on stage prayer?</p> <p>20 A. I don't know the differences. You have</p> <p>21 mentioned one.</p> <p>22 Q. Is there any other difference that you can</p> <p>23 think of, in terms of the impact on solemnifying the</p> <p>24 proceedings, between a prayer off stage and a prayer o</p> <p style="text-align: center;">49</p>	<p>1 A. I have.</p> <p>2 Q. Were there board meetings where you didn't</p> <p>3 participate?</p> <p>4 A. Where I didn't participate in the prayer?</p> <p>5 Q. Did not participate in the prayer?</p> <p>6 A. No.</p> <p>7 Q. What do you do to indicate -- when you're not</p> <p>8 leading the prayer, what do you do to indicate that</p> <p>9 you're participating?</p> <p>10 A. I don't know that I have to indicate anything.</p> <p>11 Q. I didn't say that you had to. Do you do</p> <p>12 anything to indicate that you're participating in the</p> <p>13 prayer?</p> <p>14 A. Occasionally I may say "amen" at the end.</p> <p>15 Q. Do you bow your head?</p> <p>16 A. Yes.</p> <p>17 Q. Do you fold your hands in prayer?</p> <p>18 A. I don't fold my hands, no.</p> <p>19 Q. Do you close your eyes when the prayer is</p> <p>20 offered?</p> <p>21 A. Yes.</p> <p>22 Q. Is that your consistent practice to close your</p> <p>23 eyes and bow your head?</p> <p>24 A. Yes.</p> <p style="text-align: center;">51</p>
<p>1 stage?</p> <p>2 A. Not that I can think of.</p> <p>3 Q. Okay. Now let's talk about the difference in</p> <p>4 the impact on the solemnification of the board's</p> <p>5 proceedings because there's an audience for the on</p> <p>6 stage prayer. Okay?</p> <p>7 Is that because, in your judgment, is</p> <p>8 that because the members of the audience also get the</p> <p>9 benefit of setting the tone for the meeting in the on</p> <p>10 stage prayer?</p> <p>11 A. I would say they would get the benefit.</p> <p>12 Q. And they get the benefit because they observe</p> <p>13 and participate in the prayer; is that correct?</p> <p>14 A. No.</p> <p>15 Q. So they're not participating in the prayer?</p> <p>16 A. No.</p> <p>17 Q. Then how does it have an impact on them in</p> <p>18 terms of setting the tone for the meeting?</p> <p>19 A. I would think anybody who asks for guidance</p> <p>20 doesn't do it just asking for himself or herself.</p> <p>21 Normally people, when a prayer is given, are respectful</p> <p>22 even though they're not asked to participate.</p> <p>23 Q. When prayers are offered at board meetings, do</p> <p>24 you participate?</p> <p style="text-align: center;">50</p>	<p>1 Q. Would it be your expectation that members of</p> <p>2 the audience would close their eyes and bow their head</p> <p>3 during the offering of the prayer?</p> <p>4 A. I have no expectation for the audience. They</p> <p>5 can do whatever they wish.</p> <p>6 Q. In your view, Mr. Walls, is it necessary for a</p> <p>7 member of the board to open board meetings with a</p> <p>8 prayer in order to solemnify the proceedings?</p> <p>9 A. Is it necessary?</p> <p>10 Q. Yes.</p> <p>11 A. No.</p> <p>12 Q. To state it from the other direction, the</p> <p>13 board would -- it's your expectation that the board</p> <p>14 would conduct its proceedings in a solemn and dignified</p> <p>15 and disciplined way whether it opened the meeting with</p> <p>16 a prayer or not, isn't that correct?</p> <p>17 A. Yes.</p> <p>18 Q. In special meetings of the board, it has been</p> <p>19 the practice not to open those meetings with a prayer;</p> <p>20 correct?</p> <p>21 A. Correct.</p> <p>22 Q. Those meetings have been conducted, I take it,</p> <p>23 in a solemn, respectful and disciplined way?</p> <p>24 A. Hopefully.</p> <p style="text-align: center;">52</p>

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<p>1 A. Yes, I heard it.</p> <p>2 Q. And did you find that disturbing as you</p> <p>3 watched it, that people would be laughing at a</p> <p>4 description of somebody disappearing?</p> <p>5 A. Yes. But I don't believe you saw me laughing</p> <p>6 on there.</p> <p>7 Q. I don't think I did.</p> <p>8 Was it your voice at the beginning of</p> <p>9 the segment that I played for you that said something</p> <p>10 along the lines of, "Sorry, Harold, I was going to say</p> <p>11 Earl"?</p> <p>12 A. It could have been. And I don't know why I</p> <p>13 would have said that.</p> <p>14 Q. Do you recall that the August 24th meeting was</p> <p>15 opened with a prayer?</p> <p>16 A. Yes.</p> <p>17 Q. You invited Dr. Hattier to give that prayer --</p> <p>18 A. That's correct.</p> <p>19 Q. -- correct?</p> <p>20 A. Correct.</p> <p>21 Q. Did you know what prayer he was going to give?</p> <p>22 A. I did.</p> <p>23 Q. How did you find out what prayer he was going</p> <p>24 to give?</p> <p style="text-align: center;">85</p>	<p>1 years. Something else too.</p> <p>2 I have been a coach in Little League</p> <p>3 baseball and Little League wrestling and football.</p> <p>4 Oh, American Legion, I'm a member of</p> <p>5 that too.</p> <p>6 Q. I should have asked you this at the beginning</p> <p>7 of the deposition. Are you employed?</p> <p>8 A. Yes.</p> <p>9 Q. And what is your position?</p> <p>10 A. I'm a crematory manager at Parsell Funeral</p> <p>11 Homes.</p> <p>12 Q. And is that in Georgetown?</p> <p>13 A. That's one of them. It has four branches.</p> <p>14 Q. And have you had -- did you have that job</p> <p>15 throughout your tenure as a school board member?</p> <p>16 A. No.</p> <p>17 Q. What did you do?</p> <p>18 A. I worked at E.I. du Pont in Seaford until</p> <p>19 2001.</p> <p>20 Q. And that's when you took the job --</p> <p>21 A. Yes. I retired from DuPont and took the job</p> <p>22 with the funeral home.</p> <p>23 Q. Thank you.</p> <p>24 Were you surprised at the amount of</p> <p style="text-align: center;">87</p>
<p>1 A. He told me ahead of time when I asked him to</p> <p>2 give the prayer. He told me it would be one by George</p> <p>3 Washington.</p> <p>4 Q. Do you know whether Dr. Hattier told anyone</p> <p>5 else what prayer he was going to give?</p> <p>6 A. I don't know that.</p> <p>7 Q. Did you tell anyone else what prayer</p> <p>8 Dr. Hattier was going to give?</p> <p>9 A. I don't know if I did or not.</p> <p>10 Q. Do you recall that state representatives spoke</p> <p>11 at the meeting?</p> <p>12 A. Yes, there were three.</p> <p>13 Q. Do you recall that they read a letter?</p> <p>14 A. Yes.</p> <p>15 Q. Do you recall that the letter indicated</p> <p>16 knowledge of the prayer that Dr. Hattier was going to</p> <p>17 give?</p> <p>18 A. I don't recall that.</p> <p>19 Q. Have you ever served as a member of any other</p> <p>20 public body than the Indian River School Board?</p> <p>21 A. Yes.</p> <p>22 Q. What bodies?</p> <p>23 A. The Georgetown Jaycees, Sussex Central Pop</p> <p>24 Warner Football. I was president of that for two</p> <p style="text-align: center;">86</p>	<p>1 attention that the school board prayer issue got?</p> <p>2 A. Yes.</p> <p>3 Q. Do you think that it attracted more attention</p> <p>4 than it deserved among all the issues presented to the</p> <p>5 school board?</p> <p>6 A. Oh, definitely.</p> <p>7 Q. I am going to ask you some questions about why</p> <p>8 it might have gotten as much attention as it got.</p> <p>9 Did you ever hear any constituent say to</p> <p>10 you -- and by constituent, I mean student, parent,</p> <p>11 resident of the district, fellow board member,</p> <p>12 whatever -- did you ever hear any constituent say to</p> <p>13 you, in words or substance, that the defense of this</p> <p>14 lawsuit was a defense of Christian values?</p> <p>15 A. I've heard that said.</p> <p>16 Q. And could you tell me who you heard that from?</p> <p>17 A. No, I couldn't.</p> <p>18 Q. Could you tell me the group of which the</p> <p>19 person who said that was a member?</p> <p>20 A. No.</p> <p>21 MR. ALLINGHAM: All right. We have to</p> <p>22 change the tape. Thank you.</p> <p>23 VIDEO SPECIALIST: Going off the record</p> <p>24 at 3:35 p.m.</p> <p style="text-align: center;">88</p>

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<p>1 (Recess.) 2 VIDEO SPECIALIST: Going back on the 3 record at 3:41 p.m. 4 BY MR. ALLINGHAM: 5 Q. Right before we broke, Mr. Walls, I asked you 6 whether you had heard from anyone that the defense of 7 this lawsuit represented the defense of Christian 8 values, and you said yes. I asked you who said it, and 9 you didn't remember. I asked you from what group, and 10 you didn't remember that either. 11 Is it fair to say that you heard it more 12 than once, however? 13 A. Yes, I'd say that's fair to say. 14 Q. When I asked you questions about the 15 attendance, expected attendance -- 16 A. At the big meeting. 17 Q. -- at the August 24th meeting, you told me you 18 knew it was going to be a big meeting, but you really 19 didn't know how, that you just hear things in Sussex 20 County; right, correct? 21 A. Correct. 22 Q. Is it fair to say that it is a widely held 23 view in the Indian River District that the defense of 24 this lawsuit represents a defense of Christian values?</p> <p style="text-align: center;">89</p>	<p>1 Q. And is that, was that misperception or did the 2 comments reflect a misperception that the issue was 3 prayer in the schools rather than -- 4 A. Yes. 5 Q. -- school board? 6 A. I heard that from several of the speakers. 7 Q. Am I correct that you and the other board 8 members did not try to correct that misperception 9 because the public comment section is meant to be an 10 opportunity for the board to hear from the public and 11 not vice versa? 12 A. Correct. 13 Q. And that's something that the superintendent 14 had urged the board to remember; correct? 15 A. Yes. 16 Q. Do you know whether at any time before or 17 after the adoption of the board prayer policy a member 18 of the public asked for a copy of the proposed policy 19 and was -- and that request was declined? 20 A. I don't remember if somebody specifically 21 asked. 22 Q. You never heard that a person asked for a copy 23 of the policy and was told that if they wanted it, they 24 should file a Freedom of Information Act request?</p> <p style="text-align: center;">91</p>
<p>1 A. There's a lot of perceptions out there about 2 this lawsuit, I think, and not all of them are correct. 3 Q. That may or may not be true, but it's not 4 100 percent responsive to my question. 5 Would you agree with me that it's a 6 widely held view in the district that the defense of 7 this lawsuit is a defense of Christian values? 8 A. It's probably widely held in this district. 9 Q. You mentioned some potential misperceptions 10 about this lawsuit. 11 A. Uh-huh. 12 Q. Could you tell me what you had in mind when 13 you said that? 14 A. I hear things from time to time or see things, 15 and I wondered where the people are coming from bec 16 they act like they know, but I know that they don't. 17 Q. So when you said that, you didn't have any 18 particular misperception in mind? 19 A. No. 20 Q. Is it fair to say that a lot of the comments 21 at the August 24th board meeting reflected a 22 misperception about what the board was considering at 23 that time? 24 A. Yes.</p> <p style="text-align: center;">90</p>	<p>1 A. I don't remember that. 2 Q. That would be contrary to -- 3 A. I mean but if this was the draft policy you're 4 talking about? 5 Q. Yes, yes. 6 A. I can't see why someone would want a draft 7 policy. 8 Q. Well -- 9 A. And I don't know that the board has ever given 10 out a draft policy before it's actually adopted. 11 Q. What is the purpose of the readings of the 12 policies? 13 A. In case the board has second thoughts or wants 14 to make changes on something, it gives a chance to do 15 that. 16 Q. It is not intended to give the public an 17 opportunity to review and comment on the policies? 18 A. After the first reading, yes, but I'm not 19 giving something out to the public before I give to the 20 board on a first reading. 21 Q. I thought we might be misunderstanding one 22 another. 23 I'm talking about a request made for the 24 proposed policy after the first reading?</p> <p style="text-align: center;">92</p>

EXHIBIT 16

Wilson, Robert 12/14/2006 1:08:00 PM

<p>1 FOR THE DISTRICT OF DELAWARE</p> <p>MONA DOBRICH and MARCO)</p> <p>DOBRICH, Individually and)</p> <p>as parents and next friend)</p> <p>of ALEXANDER DOBRICH,)</p> <p>SAMANTHA DOBRICH, JANE DOE)</p> <p>and JOHN DOE, Individually)</p> <p>and as parents and next)</p> <p>friend of JORDAN DOE and)</p> <p>JAMIE DOE,)</p> <p>)</p> <p>Plaintiffs,)</p> <p>) Civil Action</p> <p>v.) No. 05-120</p> <p>)</p> <p>INDIAN RIVER SCHOOL,)</p> <p>DISTRICT, et al.,)</p> <p>)</p> <p>Defendants.)</p> <p>Videotaped Deposition of ROBERT WILSON,</p> <p>taken pursuant to notice at 31 Hosier Street,</p> <p>Selbyville, Delaware, beginning at 1:08 p.m., on</p> <p>Thursday, December 14, 2006, before Terry Barbano</p> <p>Burke, RMR-CRR and Notary Public.</p> <p>APPEARANCES:</p> <p>RICHARD S. HORVATH, JR., ESQUIRE</p> <p>BRIAN LENHARD, ESQUIRE</p> <p>One Rodney Square</p> <p>Wilmington, Delaware 19801</p> <p>For the Plaintiff</p> <p>WILCOX & FETZER</p> <p>1330 King Street - Wilmington, Delaware 19801</p> <p>(302) 655-0477</p> <p>www.wilfet.com</p>	<p>3</p> <p>1 I am here on behalf of the plaintiffs, along with Brian</p> <p>2 Lenhard.</p> <p>3 MR. SHAU: My name is Jarrod Shau. I'm</p> <p>4 here on behalf of the defendants.</p> <p>5 THE WITNESS: My name is Robert Wilson.</p> <p>6 ROBERT WILSON,</p> <p>7 the deponent herein, having first been</p> <p>8 duly sworn on oath, was examined and</p> <p>9 testified as follows:</p> <p>10 BY MR. HORVATH:</p> <p>11 Q. Mr. Wilson, you are a member of the Indian</p> <p>12 River School Board; correct?</p> <p>13 A. That's right.</p> <p>14 Q. You have been a member since July 2006?</p> <p>15 A. That's right.</p> <p>16 Q. And I am going to show you what has been</p> <p>17 marked PX-9. This is a copy of the school board prayer</p> <p>18 policy.</p> <p>19 Since you joined the school board, have</p> <p>20 you reviewed this policy?</p> <p>21 A. Yes.</p> <p>22 Q. When did you review it?</p> <p>23 A. Pretty much when I first came on the board.</p> <p>24 Q. Was this policy given to you in a packet of</p>
<p>2</p> <p>1 APPEARANCES (cont'd):</p> <p>2 JARROD SHAU, ESQUIRE</p> <p>Drinker, Biddle & Reath, LLP</p> <p>3 One Logan Square</p> <p>18th and Cherry Streets</p> <p>4 Philadelphia, Pennsylvania 19103-6996</p> <p>For the Defendants</p> <p>5</p> <p>ALSO PRESENT:</p> <p>6 Lindsay duPhilly, Videographer</p> <p>7</p> <p>8 - - -</p> <p>9 VIDEO SPECIALIST: This is a videotape</p> <p>10 deposition of Mr. Robert Wilson taken by the plaintiff</p> <p>11 in the matter of Dobrich, et al. versus Indian River</p> <p>12 School District, et al., Civil Action No. 05-120.</p> <p>13 This is being held in the Indian River</p> <p>14 School District offices, 31 Hosier Boulevard,</p> <p>15 Selbyville, Delaware.</p> <p>16 We are going on the record on December</p> <p>17 14th, 2006, at approximately 1:08 p.m.</p> <p>18 The court reporter is Terry Burke from</p> <p>19 the firm of Wilcox & Fetzer, Wilmington, Delaware. My</p> <p>20 name is Lindsay duPhilly and the videotape specialist of</p> <p>21 Discovery Video Services.</p> <p>22 Counsel will now introduce themselves and</p> <p>23 then the court reporter will swear in the witness.</p> <p>24 MR. HORVATH: My name is Richard Horvath.</p>	<p>4</p> <p>1 other district policies?</p> <p>2 A. Pretty much. Well, no. This was actually by</p> <p>3 itself.</p> <p>4 Q. By itself?</p> <p>5 A. By itself.</p> <p>6 Q. Who gave it to you?</p> <p>7 A. I do not recall. I do not recall.</p> <p>8 Q. Was it given to you at a school board meeting?</p> <p>9 A. Yes, it was.</p> <p>10 Q. And it was given to you after you joined the</p> <p>11 board as a part of your orientation?</p> <p>12 A. Yes -- no, not necessarily as an orientation,</p> <p>13 but it was given to me after I joined the board.</p> <p>14 Q. And after you received the policy, did you</p> <p>15 discuss with any board members how the board prayer</p> <p>16 policy operates?</p> <p>17 A. No.</p> <p>18 Q. Have you discussed with any school board</p> <p>19 members what prayers would be prohibited under the</p> <p>20 policy?</p> <p>21 A. No.</p> <p>22 Q. Have you discussed with any school board</p> <p>23 members why the board opens its public meetings with</p> <p>24 prayer?</p>

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<p>1 want. It's just like a Jehovah Witness coming to my 2 house. I listen to what they have to say. I don't 3 agree with it, I'm not rude and I'm not ignorant. 4 The same thing is with other types of 5 religions. I'm very tolerant of other religions. If 6 they want to share that with me. I'm not saying my 7 religion's the only religion. That's not exactly at 8 all what I'm trying to do. 9 That's just my way of being taught, 10 that's my teaching. That's what I believe. 11 An atheist believes there's not a God. 12 That's his belief. That's fine. 13 Q. You said same opportunity. Do you understand 14 that the opportunity we're talking about here is 15 offering a prayer at the start of school board 16 meetings? 17 A. Yes. 18 Q. Are members of the community who are not 19 school board members offered an opportunity to give a 20 prayer at the start of school board meetings? 21 A. No. 22 Q. So they don't have the same opportunity that 23 you have when it comes to offering a prayer at school 24 board meetings?</p> <p style="text-align: center;">29</p>	<p>1 you physically when you ask for the intervention? 2 A. Yes, it does. I think when you do it in the 3 public like that, I think it shows that you can come 4 together, and that's one thing that a lot of people 5 have in common. And when we say a prayer at a board 6 meeting, 99 percent of the people do take part. 7 Q. Of the people, you mean the people present? 8 A. Of the people present, they do take part. I 9 have been able to look around at several times and 10 there are people that have heads bowed. We have not 11 had anybody run out in a rave, I guess you would say. 12 It's just a way to publicly come together as a board. 13 Q. Thank you, sir. 14 The board prayer in some way is for the 15 benefit of everyone in attendance? 16 A. That's exactly right. 17 Q. And the public will not benefit from that if 18 the board prayer is outside of the public's presence? 19 A. I don't think it shows the same kind of unity. 20 We want the public to take part in the prayer. That's 21 the whole thing behind the public board meeting. If a 22 person wants to come forward after a meeting and say 23 that there was an issue with that, I can see us 24 changing it, rewording it, working with them, maybe</p> <p style="text-align: center;">31</p>
<p>1 A. No. 2 Q. Why is it of the utmost importance to ask and 3 pray for divine guidance from Our Heavenly Father? 4 A. I would say, I have to look at our 5 Constitutional government, our House of Representative 6 opens up with a word of prayer. Why is it important 7 for them to do it? We feel -- I think people on the 8 board feel whether it -- when we pray to God, now 9 understand that a God, when I say God, I'm praying to 10 God, or you're praying to God, you could mean Allah or 11 any other God, but praying to God is praying to God. 12 Do you understand what I mean by that? 13 Q. Unfortunately, sir, I don't feel like you're 14 answering my question. I asked you why is it 15 important? 16 A. It's more of a -- it's just a way, I guess, we 17 communicate through God asking for his divine 18 intervention. Okay, to a God for divine intervention, 19 whether it be my God or another person's God. 20 Q. Do you believe that divine intervention will 21 help you make better decisions? 22 A. Yes, I do. 23 Q. It doesn't matter where you ask for divine 24 intervention, does it? And by where, I mean where are</p> <p style="text-align: center;">30</p>	<p>1 even offering them to say a prayer. 2 Q. Do you think that's likely after what happened 3 to the Dobriches? 4 A. Yes, I do. 5 Q. I am going to show you a copy of what's been 6 previously marked as PX-72. 7 It's a copy of the May 3rd, 2006 issue 8 of the Delaware Wave. 9 A. Okay. 10 Q. If you will look on the second page, it's 11 marked P-2439 at the bottom. I think you're already on 12 it. 13 A. Yeah. 14 Q. Were you sent a series of questions for this 15 article? 16 A. Yes, I was. 17 Q. And did one of those questions involve the 18 prayer suit? 19 A. I don't -- let me look here and I'll tell you. 20 It evidently was, yes. 21 Q. You responded to, I guess it's a query, On 22 board's refusal to settle prayer suit, your response 23 was, "I am very proud of this school board and the 24 stand they took. It took a lot of courage to stand</p> <p style="text-align: center;">32</p>

EXHIBIT 17

*Indian River
School District*

2004

*Academic
Achievement
Banquet*

May 13, 2004

6:30 PM

*Southern Delaware
School of the Arts*

Program

*Welcome Denise C. Speicher
Supervisor Of Secondary Instruction*

*Musical Selections Southern Delaware School of Arts "The Road Show"
Conducted by Frank Mahoney*

Invocation Reverend Marvin Morris

Dinner

*Remarks Lois Hobbs, Superintendent
Indian River School District*

Guest Speaker Dr. Jackie O. Wilson

*Presentations Harvey Walls, President, Board of Education
Lois Hobbs, Superintendent
Mark Steele, Principal, Indian River High School
Donna Hall, Principal, Sussex Central High School
Ray Steele, Asst. Principal, Indian River High School
Duncan Smith, Asst. Principal, Sussex Central High School
Tim Slade, Asst. Principal, Sussex Central High School*

Benediction Reverend Marvin Morris

Dinner Catered by Georgia House

Guests of Honor

Ashley Adams	Cassandra M. Gibbs	Dana Pernagallo
Mark D. Ahlfeldt	Benjamin T. Gichner	Bonnie Plum
Melissa Alesi	Richard J. Giorgilli	Jacquelyn M. Powers
Stephen C. Alesi	Jordan R. Hale	Brittany Proudfoot
Lauren Baker	Timothy S. Hale	Michelle Pusey
Laura Bamaca	Cynthia Harvey	Thomas J. Reichert
Lucas F. Beam	Garrett A. Hastings	Stephanie L. Richter
Kathleen M. Bernstein	Tyler R. Hastings	Brandon K. Rickwood
Timothy V. Berzins	Marie Haughey	Kathryn R. Riley
Matthew T. Binsted	Christina A. Hensler	Gretchen A. Ritter
Begona Blasco	Lance Hickman	Karalyn A. Roach
Katie N. Blatzheim	Beth Hitchens	Peter O. Roenki
Andrew J. Bokinsky	Jamie Hoffer	Erin L. Sagers
Elizabeth Booth	Lauren Hoffman	Sean M. Santiago
Chad E. Brasure	Ashley R. Hudson	Glen Saunders
Scott D. Bulkeley	Amanda Hunsberger	Kristen Schaeffer
Jamie Bunting	Samantha Hyler	Whitney Shanefelter
Julie E. Butters	Cory Jackson	Lauren E. Sheats
Nicholas Cain	Brandy Jester	Krista K. Showalter
Catherine C. Clark	Amanda L. Johnson	Jonathan Siletta
Kate Collins	Thomas C. Jurusik	Darell Singleterry
Gwendolyn Conaway	Hyun Kim	Chelsea Sizemore
Andrew Cordell	Ji Kim	Dannitra Snead
Bianey Cordoba	Dezaray King	Elizabeth Stacey
Amanda Cordrey	Nicole E. Kline	Lindsay Steele
Richard Cordrey	Sara Lawrence	Rachel Stevenson
Mallory E. Cropper	Shannon Lecates	Tshinina Street
Elizabeth M. Daniel	Robin M. Lee	Pamela E. Townsend
Arthur E. Davidson	James M. Lewis	Brittany A. Truitt
Renee A. Davidson	Chelsea Leyh	Melissa Turpin
Amanda Dean	Chad Lingenfelder	Caitlind Twyford
Angela C. Delario	Julie Macklin	Allison Vari
Daniel Desiderio	Adam Maloney	Ann C. Veith
Samantha Dobrich	Charles Marshall	Stephanie Walls
Mary Ellen M. DuPont	Andrew Martin	Laura B. Walter
Brandi Eckler	Keili A. Marvel	Stephanie N. Ware
Edwin J. Edwards III	Kenneth Matthias	Kayla D. Warrington
Samuel Ehrick	Kalonna Maull	Lindsay Watson
Allison Erskine	Sara McCabe	Kaitlynn M. Wells
Erica E. Evans	Kelly A. McCreary	John Wheeler
Jennifer L. Evans	Colin McIlwaine	Kyle White
Stephanie Ewell	Sara Milam	Shanette White
Joyce Ferido	Lauren Miller	Heather Wilkerson
Timothy Fike	Holly C. Miskin	Tori Williams
Nicholas B. Firlein	Susan Mitchell	Sharde' N. Wise
Insley Fowler	Cara A. Morris	Maegen Wren
Fletcher Garrison	Trey Mumford	Jennifer Zezenski
Julie Garvilla	Joshua Myers	
Stacey Garvilla	Megan A. Orhelein	

Students in bold are those who have been honored four consecutive years.

Board of Education

Harvey Walls, President
Charles Bireley
Nina Lou Bunting
Richard Cohee
John Evans

Reginald Helms, Vice President
Gregory Hastings
Donald Hattier
Mark Isaacs
Elaine McCabe

Administration

Lois M. Hobbs
Superintendent

Earl Savage
Asst. Superintendent

Susan Bunting, Ed.D.
Director, Dept. of Instruction

Jay Headman
Administrative Assistant

Denise C. Speicher
Supervisor, Secondary Instruction

Mark Steele
Principal, Indian River High School

Donna Hall, Ed.D
Principal, Sussex Central High School

Ray Steele
Asst. Principal, Indian River High School

Tim Slade
Asst. Principal, Sussex Central High School

Duncan Smith
Asst. Principal, Sussex Central High School

Appreciation is extended to the Southern Delaware School of the Arts and Indian River Educational Complex custodial staff for their cooperation and work towards preparation of the 2004 Academic Achievement Banquet. Further acknowledgement is given to Denise Speicher, Frank Mahoney & The Road Show, and Lauren Grise & her Southern Delaware School of the Arts Honor Society students. A special thanks also goes to Hans Anderson of the Southern Delaware School of the Arts for operating the sound system.

"The Road Show"

Dance Coordinator – Elizabeth Whealton

Musical Arranger & Director – Frank Mahoney

Ryan Cannon
Victoria Clark
Shelby Collins
Cristin Corbin
Kelsey Daisey
Michelle Giorgilli
Alex Gundermann

Maurice Hein
Lucas Kerns
Colleen Mahaffie
Wayde Marsh
Eli Mumford
Alyssa Murray
Nicole Nadig

J. T. Norton
Chris Pridgeon
Sarah Purdum
Zack Smith
Latoya Walters
Matt Wiltshire

EXHIBIT 18

*Indian River
School District*

2003

*Academic
Achievement
Banquet*

May 14, 2003

6:30 PM

*Southern Delaware
School of the Arts*

Program

<i>Welcome</i>	<i>Denise C. Speicher Supervisor Of Secondary Instruction</i>
<i>Musical Selections</i>	<i>Southern Delaware School of Arts "The Road Show" Conducted by Frank Mahoney</i>
<i>Invocation</i>	<i>Reverend Marvin Morris</i>
	<i>Dinner</i>
<i>Remarks</i>	<i>Lois Hobbs, Superintendent Indian River School District</i>
<i>Guest Speaker</i>	<i>Ileana Smith, Ed.D.</i>
<i>Presentations</i>	<i>Charles Bireley, President of Board of Education Lois Hobbs, Superintendent Mark Steele, Principal, Indian River High School Donna Hall, Principal, Sussex Central High School Ray Steele, Asst. Principal, Indian River High School Duncan Smith, Asst. Principal, Sussex Central High School Tim Slade, Asst. Principal, Sussex Central High School</i>
<i>Benediction</i>	<i>Reverend Marvin Morris</i>

Menu

Entrée

*Roast Beef au jus
Breast of Chicken*

Salad

*Tossed Salad
Ambrosia*

Vegetables

*Mashed Potatoes
Broccoli with Cheese Sauce
Green Peas & Pearl Onions*

Dessert

Strawberry Tart

*Hot Rolls - Butter
Coffee - Iced Tea
Mints & Nuts*

Guests of Honor

Ashley Adams
 Melissa Adkins
 Justin Albright
 Melissa Alesi
 Alexandra Ambrose
Jamie Baker
 Lauren Beam
 James Bennett III
 Nicole Berzins
 Courtney Betton
 Linley Betton
 Danielle Blake
 Andrew Bokinsky
 Brittany Booth
Amber Brasure
 Chad Brasure
 Jamie Bunting
Nelson Bunting
 Sarah Burton
 Timothy Butters
 Jennifer Byus
 Stacey Campbell
Sheena Carter
William Chandler IV
 Michelle Ciampo
 Catherine Clark
Justin Cohee
 Jason Collins
 Julie Collins
 Kate Collins
 Gwendolyn Conaway
Heather Conroe
 Jeffrey Cook Jr.
 Carin Corbin
 Andrew Cordell
 Bianey Cordoba
 Brett Cordrey
 Richard Cordrey
 Maria Counts
 Mallory Cropper
 Elizabeth Daniel

Angela Delario
 Erin DeMoss
 Samantha Dobrich
 Paige Doeberl
 Amy Donovan
 Mary DuPont
 Stacey Dykes
 Brandi Eckler
 Edwin Edwards III
 Candace Esham
 Samantha Felid
 Joyce Ferido
 Timothy Fike
Jessica Fisher
 Chelsie Frey
 Jessica Garcia
 Fletcher Garrison
 Stacey Garvilla
 Benjamin Gichner
 Richard Giorgilli
 Kaylynn Gland
 Ronchelle Godwin
 John Gooss
 Shannon Gotte
Jacqueline Gray
 Jordan Hale
 Timothy Hale
Katlin Harker
 Amanda Hastings
 Grant Hastings
 Tyler Hastings
 Marie Haughey
 Kyle Helke
 Eric Henderson
 Christina Hensler
 Beth Hitchens
 Joshua Hitchens
 Jamie Hoffer
 Matthew Hoffman
 Lauren Hoffman
 Ashley Hudson

Amanda Hunsberger
 Samantha Hyler
 Dona Inthaxoum
 William Ireland Jr.
 Cory Jackson
 Daryl Jackson
Kimberly Jones
 Thomas Jurusik
 Jee Hee Kim
 Dezaray King
 Laura Kleinstuber
 Nathaniel Kortvelesy
 Sara Lawrence
 Matthew Lewis
Alexis Leyh
 Chelsea Leyh
 Krista Littleton
 Laura Long
Ashley Lynch
 Julie Macklin
 Adam Maloney
 Charles Marshall
 Aleni Martin
 Andrew Martin
 Ashleigh Martz
Julie Matthias
 Kenneth Matthias
 Amanda McCracken
 Becky McDowell
Erin McDowell
 Colin McIlvaine
 Haley Mitchell
 Susan Mitchell
 Beth Moore
Lindsey Moore
 Kyle Murray
 Lagina Nosavanhi
 Jessica Nowacki
 Megan Orhelein
Bina Patel
 Dana Peragallo

Brittany Proudfoot
 Michelle Pusey
 Kathryn Riley
 Gretchen Ritter
Emily Robinson
 Erin Sagers
 Glen Saunders
Amanda Schleifer
 Ashley Schutt
 Bradley Schutt
 Louis Schwartz
 Lauren Sheats
Genny Shinn
Amanda Short
Ashley Short
 Krista Showalter
 Darell Singleterry
 Chelsea Sizemore
 Margaret Stasi
 Rachel Stevenson
Shaun Thompson
Tiffany Tribbitt
 Eric Tsavdar
 Melissa Turpin
 Caitlind Twyford
 Taylor Vanderhook
 Dana Vogel
 Laura Walter
 Stephanie Ware
Ryan Warner
 Kayla Warrington
 Brandy West
 Christopher White
 Kyle White
 Shanette White
 Tyler Wilkins
 Heather Willey
 Tori Williams
 Jessica Willing
 Maegen Wren
 Haley Wyatt

Students in bold are those who have been honored four consecutive years.

Board of Education

Charles Bireley, President
Nina Lou Bunting
Richard Cohee
John Evans
Gregory Hastings

Harvey Walls, Vice President
Donald Hattier
Reggie Helms
Mark A. Isaacs
Elaine McCabe

Administration

Lois M. Hobbs
Superintendent

Earl Savage
Asst. Superintendent

Susan Bunting, Ed.D.
Director, Dept. of Instruction

Denise C. Speicher
Supervisor, Secondary Instruction

Mark Steele
Principal, Indian River High School

Donna Hall, Ed.D
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"The Road Show"

Dance Coordinator – Elizabeth Whealton
Musical Arranger & Director – Frank Mahoney

J. T. Norton
Cristin Corbin
Wayde Marsh
Maurice Hein
Victoria Clark
Andrea Picazo
Danielle Dell
Kasey Cordell
Kelsey Daisey

Eli Mumford
Emily Southmayd
Matt Wiltshire
Jeremy Pedersen
Alyssa Murray
Colleen Mahaffie
Lucas Kerns
Sarah Purdum
Emily Barton
Michell Giorgilli

Amy Johnson
Erin Kortvelesy
Cori McCowan
Nicole Nadig
Erika Parlett
Cassidy Seabolt
Loree Vickio
Chris Pridgeon
Zach Smith

EXHIBIT 19

**Indian River
School District**

2002

**Academic
Achievement
Banquet**

**May 15, 2002
6:30 PM
Southern Delaware
School of the Arts**

Program

Welcome	Denise C. Speicher Supervisor Of Secondary Instruction
Invocation	Reverend Marvin Morris Booker Street Church of God
Musical Selections	SDSA's "The Road Show" Conducted by Frank Mahoney
	Dinner
Remarks	Lois Hobbs, Superintendent Indian River School District
Guest Speaker	Everett Toomey, Ed.D.
Presentations	Charles Bireley, President Board of Education Lois Hobbs, Superintendent Mark Steele, Principal, IRHS Donna Hall, Principal, SCHS Ray Steele, Asst. Principal, IRHS Duncan Smith, Asst. Principal, SCHS Tim Slade, Asst. Principal, SCHS
Benediction	Reverend Marvin Morris

Menu

Entrée
Roast Beef au jus
Breast of Chicken

Vegetables
Mashed Potatoes
Broccoli with Cheese Sauce
Green Peas & Pearl Onions

Salad
Tossed Salad
Ambrosia

Dessert
Strawberry Tart

Hot Rolls – Butter
Coffee – Iced Tea
Mints & Nuts

Guests of Honor

Ashley M. Adams
 Melissa M. Alesi
 Laura Bader
 Jamie Baker
 Lauren Beam
 Richard Bell
 Nicole Berzins
 Danielle M. Blake
Amanda L. Bly
 Brittany M. Booth
 Amber R. Brasure
 Kelly J. Brittin
 Michelle Brittingham
 Steven L. Brumberg
 Tyler J. Bryan
Jennifer L. Bunting
 Nelson J. Bunting
 Stacey L. Campbell
 Ashley B. Cannon
 Nathan L. Carr II
 Sheena L. Carter
 Nicole E. Chafin
 William B. Chandler
 Aisha Choudhri
 Catherine Clark
 Justin Cohee
Holly Collins
 Julie R. Collins
 Angela J. Colone
 Heather Conroe
 Bianey Cordoba
 John Cordrey
 Brett A. Cordrey
 Candy L. Couch
Brittany A. Croll
 Mallory O. Cropper
 Elizabeth M. Daniel
 Christine L. Deck
 Angela C. Delario
 Megan B. Disharoon
 Samantha Dobrich
Danielle L. Dorman
 Stacey R. Dykes
 Edwin J. Edwards III
 Dayna L. Elliott
 Candace E. Esham
Candice A. Evans
 Samantha E. Feld
 Joyce A. Ferido
 Jessica Fisher
 Insley M. Fowler
 Samantha E. Frazier
 Kaylynn R. Gland
 Charmion A. Gray

Jacqueline Gray
 Michelle C. Gray
Heather R. Hale
 Jordan R. Hale
 Katlin E. Harker
 Renee L. Harmon
 Candice R. Harris
 Grant Hastings
Angela M. Hauck
 Samantha C. Hauck
 Crystal L. Haymond
 Jennifer M. Hazzard
 Jessica L. Hazzard
 Kyle Helke
 Eric J. Henderson
 Christina Hensler
 Mark D. Hernandez
 Beth R. Hitchens
 Jamie C. Hoffer
 Lauren R. Hoffman
 Meghan B. Howlett
 Jessica L. Hudson
Frank E. Hudson III
 Amanda Hunsberger
 William Hyler
 Dona Inthaxourn
Nicole M. Ireland
 Daryl Jackson
 Ashley Jones
 Kimberly Jones
 Jee Kim
 Dezaray King
 Laura A. Kleinstuber
 Sara Lawrence
 Robin E. Lee
 Matthew D. Lewis
 Alexis Leyh
 Hien Luu
 Ashley Lynch
 Julie Macklin
Lesley Maloney
 Aleni Martin
 Andrew Martin
 Ashleigh Martz
Douglas M. Marvel
 Julie Matthias
 Kenneth Matthias
 Erin McDowell
 Shannah Messick
 Anthony Milam
 Daniel Milam
 Christopher Mireider
 Haley B. Mitchell
 Beth Moore

Lindsey Moore
 Ronald O. Morgan, Jr.
 Leslie M. Morin
 Matthew Murray
 Jason T. Nauman
 Lagina Nosavanh
Craig S. Oliver
 Megan A. Orhelein
Stephanie Parker
 David Parsons
 Bina Patel
 Devon E. Pennell
 Dana Peragallo
Colleen S. Powell
 Jacquelyn M. Powers
 Michelle Pusey
 Kyle Ricker
 Brandon K. Rickwood
 Jenna Riddle
 Gretchen A. Ritter
 Emily Robinson
 Ravin E. Robinson
 Amanda Schleifer
 Ashley Schutt
 Bradley Schutt
 Ginny Shinn
 Amanda Short
 Ashley Short
Darion Showell
 Darel Singleterry, Jr.
 Chelsea Sizemore
 Luke Sizemore
 Tabitha Smith
 Margaret Stasi
 Rachel Stevenson
 Casey Strohmeier
 Kristy Ten
 Shaun Thompson
 Justin M. Tomlinson
 Tiffany A. Tribbitt
 Eric J. Tsavdar
 Christopher Uibel
 Taylor Vanderhook
 Stephanie N. Ware
 Ryan Warner
 Courtney West
 Jennifer Westfall
 Megan M. Wharton
 Kyle White
 Hillary Wright
 Dong Yang
 Brandy S. Yost

Students in italics are those who have been honored four consecutive years.

Board of Education

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Gregory Hastings
Richard Cohee
John Evans
Reginald Helms

Joseph Booth
Elaine McCabe
Lewis Patterson
Everett Toomey
Harvey Walls

Administration

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Ray L. Steele
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The Road Show

Ricker Adkins
Lee Bailey
Linley Betton
Victoria Clark
Cristin Corbin
Danielle Diaz
Michelle Giorgilli
Ricky Giorgilli
Patrizia Gugliotta
Marc Hayden

Maurice Hein
Lance Hickman
Lucas Kems
Nick Kleper
Erin Kortvelesy
Wayde Marsh
Cori McCowan
Eli Mumford
Cory Murray
J. T. Norton

Mary Pawlina
Jeremy Pedersen
Chris Pridgeon
Josh Ritter
Rachel Silkworth
Emily Southmayd
Robbie Syphard
Connor Vanderhook
Elizabeth Whealton
(Dance Coordinator)

EXHIBIT 20

BBF

SCHOOL BOARD MEMBER ETHICS

Members of the Board of Education will strive to attain the following Code of Ethics adopted by the Board of Directors of the National School Board Association, May 2, 1961:

1. As a member of my local Board of Education, representing all the citizens of my school district, I recognize

That my fellow citizens have entrusted me with the educational development of the children and youth of this community.

That the public expects my first and greatest concern to be in the best interest of each and every one of these young people without distinction as to who they are or what their background may be.

That the future welfare of this community, of this State, and of the nation depends in the largest measure upon the quality of education we provide in the public schools to fit the needs of every learner.

That my fellow board members and I must take the initiative in helping all the people of this community to have all the facts all the time about their schools, to the end that they will readily provide the finest possible school program, school staff, and school facilities.

That legally the authority of the Board is derived from the State which ultimately controls the organization and operation of the school district and which determines the degree of discretionary power left with the Board and the people of this community for exercise of local autonomy.

That I must never neglect my personal obligation to the community and my legal obligation to the State, nor surrender these responsibilities to any other person, group or organization; but that beyond these, I have a moral and civic obligation to the nation which can remain strong and free only so long as public schools in the United States of America are kept free and strong.

2. In view of the foregoing consideration, it shall be my constant endeavor:

To devote time, thought and study to the duties and responsibilities of a school board member so that I may render effective and creditable service.

To work with my fellow board members in a spirit of harmony and cooperation in spite of difference of opinion that arise during vigorous debate of points of issue.

BBF

To base my personal decision upon all available facts in each situation; to vote my honest conviction in every case, unswayed by partisan bias of any kind; thereafter, to abide by and uphold the final majority decision of the Board.

To remember at all times that as an individual I have no legal authority outside the meetings of the Board and to conduct my relationship with the school staff, and local citizenry, and all media of communication on the basis of this fact.

To resist every temptation and outside pressure to use my position as a school board member to benefit either myself or any other individual or agency apart from the total interest of the school district.

To recognize that it is as important for the Board to understand and evaluate the educational program of the schools as it is to plan for the business of school operation.

To bear in mind under all circumstances that the primary function of the Board is to establish the policies by which the schools are to be administered, but that the administration of the education program and the conduct of school business shall be left to the employed superintendent of schools and his professional and non-professional staff.

To welcome and encourage active cooperation by citizens, organizations, and the media of communication in the district with respect to establishing policy on current school operation with proposed future developments.

To support my State and National School Boards Associations.

Finally, to strive step by step toward ideal conditions for most effective school board service to my community, in a spirit of teamwork and devotion to public education as the greatest instrument for the preservation and perpetuation of our representative democracy.

Adopted 1/25/88

EXHIBIT 21

Serving the Heart of Sussex County

SUSSEX POST

Thursday, May 8, 2008

50 cents

IB school election May 13

By Michael Short
Sussex Post

DAGSBORO — Six candidates will be seeking three contested seats on the Indian River School Board on Tuesday. Nina Lou Bunting will be returned to office since she is running unopposed for another term in District Three.

In District Four, incumbent Dr. Donald G. Hatter will face challengers Harold I. Walters and Christopher A. White for the one seat available.

In District Five, three candidates will seek two seats on the school board. Longtime incumbent Reggie L. Helms and incumbent Donna M. Mitchell will face a challenge from political newcomer Sharon Brillingham.

Mr. Walters, 51, is running for office for the first time. He is the supervisor of transportation for the Milford School District and spent seven years working as a student adviser in the Indian River School District. He called for better communication and more

accountability.

"I just think we need a (better) working relationship between the district and the community," he said. He said his experience in the community, working in two school districts and being a former Indian River student all give him valuable experience.

Mr. Walters said he supports school uniforms for students. "I think that when the kids dress better and look better, they act better."

"It is a good district. It has

some great teachers and some great students. We just need to be on the same page to make it that much greater," he said.

He said a good school board member needs to be "somebody who is going to be honest with you and somebody who has no agenda. My only agenda is what's best for the kids."

Mr. White is a former MBNA employee who now works in sales for Mountaire. He said the board needs people with more diverse backgrounds and more

real world experience and he believes his experience in the corporate world would be a plus.

Mr. White said the board needs to resist the urge to be too involved in day-to-day operations. "You need to get on the board to give clear direction," he said.

He called for more student and parental involvement and said he is very concerned about graduation rates, both in the district and at the state level. More

See Election — Page 6

Students soar: Eagle Company teaches life skills

Rape arrest

Election

Continued From Page 1

involvement by parents and students could result in higher test scores and graduation rates, he said.

He also said the board needs to update its ethics policy which dates back to 1961. He called for fiscal responsibility and said the district needs to make sure it manages its finances in the best possible fashion.

He believes in a strict dress code policy, saying it creates a better learning environment.

He said he brings an open mind and real world experience to the position and he pledged to listen and gather all the facts before making a decision.

"You have to have an open mind ... and no personal agendas," he said.

Dr. Hattier is a chiropractor. He served on the district's financial committee for two years before becoming a member of the school board and he has been in the forefront of the district's study of a possible school uniform.

He decided to run again because "I think there are a lot of things that are unfinished."

He is concerned about possible funding cuts to education and calls the May 22 referendum a "must pass" for the district. "Since

Harold Walters

2002, the state has eliminated a total of 6 million dollars from the school budget in our district alone. At the same time, salaries and other employment costs have risen dramatically ... You can't keep cutting funding and expect the same good product."

He said the board's changes in its religion policy (following a lawsuit over school prayer) give the students more flexibility and many school districts are now looking at Indian River's policy as a possible model.

One part of that lawsuit is still pending and that portion deals with whether or not the school board should be able to open its meetings with a prayer. He said he supports the opening prayer and believes it is constitutional.

Dr. Hattier said he has worked to increase participation in music and arts programs and he supports district efforts to supplement reading programs. He is quick to note the high test scores, the major building rebuilding and modernization program and other ac-

Chris White

complishments of the district. "I feel passionately about public education and its benefits," he said. "I want the best for my children, and by extension, for everybody else's children as well."

Mr. Helms has served on the school board for 17 years and he said that a good school board member needs to have "a servant's heart." He explained that a position like school board is taken because people want to help and called it "an honor and a privilege" to be able to serve the public.

He said one of the biggest challenges will be how to deal with possible budget cuts, although final state cuts have yet to be determined.

"I don't want to touch anything in the classroom (with budget cuts)," he said. "It will be a challenge to maintain those test scores and cut \$1 million (in possible state cuts) out of the budget."

He said his constituents have told him they support prayer be-

Reggie Helms

complishments of the district. "I feel passionately about public education and its benefits," he said. "I want the best for my children, and by extension, for everybody else's children as well."

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He said his constituents have told him they support prayer be-

school board meetings, saying "I think we all need guidance. More than ever, when we see all the negative things that happen."

She said dealing with possible budget cuts is a major concern for the district and said that the state's equalization formula makes it difficult for districts like Indian River to get ahead. She also said it's difficult trying to fund all-day kindergarten because that requirement is an unfunded mandate from the state.

"Overall, I would say Indian River is a wonderful school district. I am very proud of it. I think the school district is just about as good as it gets, but there is always room for improvement," she said.

She said a good school board member must be willing to do their homework and commit a lot of time to the board. "You really have to have the pulse of what's happening," she said.

She considers herself a "watch dog" for children and said she has always been involved with Little League, booster clubs or other youth activities.

"My whole life has been about kids," she said. "Kids have been my life. That's my passion."

Sharon Brittingham has extensive experience in education, having served as a coach, teacher and principal. She now works at the Delaware Academy of School Leadership at the University of

Delaware and says her experience is a major plus.

"I think I understand a lot of different perspectives. I understand the diverse needs of this community ... and I can be a voice for people who sometimes don't have a voice. I bring an understanding that one size does not fit all," she said.

She said she is passionate about early childhood education and wants to investigate ways to increase high school graduation rates. She prides herself on being able to think out of the box and explore different ideas.

Ms. Brittingham said the school district may need to look at more technical offerings that might not be available from Sussex Tech, such as perhaps culinary arts. She said it's just a matter of seeing what programs are available and trying to give students more options to help them better compete globally.

She thinks the district should explore internships and apprenticeships as part of that effort to provide more options. She supports the ESL (English as a second language) and the Village Programs offered by the district.

"There are ways of thinking out of the box," she said. "I'm all about kids and what's in the best interests of the kids."

Donna Mitchell
Sharon Brittingham

ore the school board meetings. I don't see a thing wrong with prayer before the board meetings," he said.

Mr. Helms said a good school board member needs to be open minded, do their homework and have no personal agendas.

"I have a willingness to work with people," he said. "I consider myself a people person and a problem solver."

He said he understands both sides of the debate over whether the district should have school uniforms, but generally is supportive of the idea.

He said the district has had good academic success.




"We've done well. That takes a group of people. It also takes a board that cares," he said. "I appreciate the people allowing me to serve for 17 years."

Donna Mitchell has served on the school board for three years and has been chair of the policy committee for the last two years. She is a mother of six. She supports having a prayer before


Indian River School Board candidates at a glance

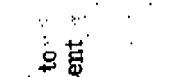

See story, page 4

DISTRICT FOUR

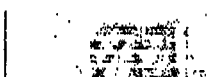

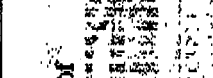
Experience	Employment	Issues	Plans if elected	Quote
 Six years on board, eight years on the district's finance committee and has four children in the school district. Donald Hattier	Chiropractor	<ul style="list-style-type: none"> Financial stability Music and the arts Prayer 	<ul style="list-style-type: none"> See prayer lawsuit through to end improve Sussex Central High School's graduation rate and add music programs. 	"A single board member can only do so much. If you don't have support of the other nine, nothing's going to happen."
 Brought up in the Indian River School District, worked as student advisor in Indian River and Milford school districts for several years. Harold Walters	Currently a truancy officer and superintendent of transportation for the Milford School District.	<ul style="list-style-type: none"> Improving relations between the community and the district Ensuring the continuing education of students 	<ul style="list-style-type: none"> Strive to increase public communication with the school board. 	"I'm an Indian River kid of the past planning to give kids of the present and future a voice."
 Father of two district students, commissioner of South Bethany Planning & Zoning Board. Chris White	Sales manager for Montaire Farms.	<ul style="list-style-type: none"> Ethics Graduation rates Fiscal responsibility 	<ul style="list-style-type: none"> Take a look at district ethics policies and get more children involved in extra-curricular activities. 	"Education is the best legacy that we can leave our kids that's free of charge."

DISTRICT FIVE

Experience	Employment	Issues	Plans if elected	Quote
 Former principal of Frankford Elementary School and former member of Delaware's Professional Standards Board. Sharon Brittingham	Currently works for Delaware Academy of School Leadership.	<ul style="list-style-type: none"> Finance Drop-out rate Early childhood programs 	<ul style="list-style-type: none"> Work to examine policies of the school board, many of which haven't been changed in decades. Examine ways to help more students graduate. 	"I put kids first in anything I do."

 Harold Walters Brought up in the Indian River School District, worked as student advisor in Indian River and Milford school districts for several years.	officer and superintendent of transportation for the Milford School District.	between the community and the district ■ Ensuring the continuing education of students	public communication with the school board.	of the past planning to give kids of the present and future a voice."
 Chris White Father of two district students; commissioner of South Bethany Planning & Zoning Board.	Sales manager for Mountaire Farms.	■ Ethics ■ Graduation rates ■ Fiscal responsibility	■ Take a look at district ethics policies and get more children involved in extra-curricular activities.	"Education is the best legacy that we can leave our kids that's free of charge."

DISTRICT FIVE

 Sharon Brittingham Former principal of Frankford Elementary School and former member of Delaware Professional Standards Board.	Currently works for Delaware Academy of School Leadership.	■ Finance ■ Drop-out rate ■ Early childhood programs	■ Work to examine policies of the school board, many of which haven't been changed in decades. Examine ways to help more students graduate.	"I put kids first in anything I do."
 Regina Helms Served on the Indian River School Board since 1991, holding the position of president vice president and chairman of various committees.	Retired power company employee.	■ State budget cuts ■ Prayer ■ Improving education	■ Continue to improve the quality of education in the district through curriculum updates, see that funding is spread throughout the district.	"I believe I have a servant's heart. It's a privilege and honor for me to serve residents and taxpayers of Indian River and always a constant part of giving back to the community."
 Donna Mitchell Three years on school board and had six children go through the district, with two sons now teaching at district schools.	On-site manager of Delaware State Housing Authority's Hickory Tree site in Selbyville.	■ Prayer ■ School safety ■ Morals and values	■ Ensure board's right to prayer before meetings, improve on district's academic standards and see prayer lawsuit to a conclusion.	"I think we're doing an excellent job on education, but there's always room for improvement."